





# ALBANY DEMOCRATIC REFORMER

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## REFORM MOVEMENTS IN ALBANY

The Speeches delivered at the recent meeting in the Capitol—a meeting assembled under a call signed by one hundred and thirty Democrats—taken in connection with the resolution adopted at that meeting, and the formation of a Constitutional Reform Association—sufficiently indicate the spirit with which the Democracy have embarked in the contest for reforming the errors and abuses in our State Government. These proceedings, faithfully sketched by the Albany Atlas, form an admirable addition to the Documents published in the former numbers of the Democratic Reformer.

## CONSTITUTIONAL REFORM MEETING,

*Held at the Capitol, in the city of Albany, on the 21st of November, 1843; in favor of Constitutional Reform by means of a State Convention.*

The Democratic citizens of Albany friendly to the cause of Constitutional Reform through the agency of a State Convention, assembled at the Capitol, Tuesday evening, Nov. 21st, pursuant to notice.

The meeting was organized, on motion of H. H. Van Dyck, by the appointment of BRADFORD R. WOOD, President, and JAMES McKOWN and CHAS. CHAPMAN, Vice-Presidents, and JOSEPH C. Y. PAIGE and WM. DAVIS, Secretaries.

On assuming the Chair, Mr. Wood addressed the meeting substantially as follows:—

The object of this meeting is briefly set forth in the public notice which calls us together on this occasion. It is to form an Association for Constitutional Reform, through the agency of a State Convention. In comparison with this, few graver questions could ever be submitted to a people, and I trust that we all approach its discussion with a deep sense of what we owe to ourselves and our country. For the first time in my life I am participating in that discussion, and taking part in a political movement: not merely because it is a political, but a great moral movement, and one eminently calculated to arrest and roll back the tide of corruption and misgovernment, which has too long swept over the State. There are few among us; but what have long since seen and felt that there were evils in the body politic, which could be cured only by an amended Constitution. We have seen the State plunged in debt with a recklessness bordering on fatuity; an Executive with a patronage fatal almost to itself; Courts of Justice burthened with a pressure of business which neither the highest legal capacity or the most untiring diligence could throw off; a co-ordinate branch of the Legislature clothed with judiciary powers and passing upon the constitutionality of its own acts; and on questions not merely constitutional, divided, in more than one instance, on party lines; and the legislature itself, in its intermittent fits of business-doing, occupied with the internal affairs of towns and counties, and doing just what the

people in their town meetings or by their superiors or village-trustees, could have better done.

It is not my province, on this occasion, to dwell on these evils. I leave them to the gentlemen who follow me, and who will do them ample justice. But, gentlemen, how is the Constitution to be amended? There are but two methods. The one, in the manner prescribed by the Constitution, through the agency of the Legislature. The other, by the people through their delegates in convention assembled. I am aware that many who agree with us in the necessity of constitutional reform, think that it should be done by the former method. And such at first was my own opinion; but I am convinced on reflection, that it cannot, or rather will not, be done in this manner. That the legislature could do it, if it chose, there is no doubt—but will it? On this point I am very skeptical. Reasoning from the past to the future, I must say I have no confidence in the Legislature. To say the least, what with local legislation, what with corporation-making and log-rolling, and what with making political capital, it has no time for the grave and important business of mending constitutions. Look back upon the legislation of the past, and see to what it has brought us—while you bear in mind the external influences which have been brought to bear upon it! Have we not seen the steps of this Capitol, where we are now assembled, crowded, and the Legislature surrounded by hordes of lobby-members, coming up from almost every class of society—from the reckless, broken-down stock-gambler and speculator, to the grave and venerable Dr. of Divinity? And when I look back upon the past and what has taken place in our legislative halls, I am constrained to say that the people have been in the hands of a set of unprincipled political gamblers, who have basely cheated and defrauded them: Nay more, that with certain men, party organization has been held of far more consequence than democratic principle. There was a time, perhaps, when it would have been held rank heresy thus to question the infallible wisdom of one's rulers; but I am no believer of infallibility any where, nor of that other dangerous error, that we are called on to defend every legislative act of the past, be it right or wrong, weak or wicked. It is our duty not merely to watch our opponents, but to watch ourselves. All strong parties have been cursed with the adherence of politicians by trade, and democracy itself can be as easily assumed as any other name, under which to accomplish sinister and selfish objects.

Reasoning then, gentlemen, from the past, what can we expect from the agency of the Legislature? And were it ever so incorruptible,—were it ever so capable, it could not, from its very construction, originate and pass upon all the requisite amendments: amid all its multifarious labors, from the extension of the time of a town or ward collector of taxes, to the enacting a supply bill, there would be neither time nor opportunity to discuss and weigh such grave and important matters.

If, then, the amendment to the Constitution cannot be effected by the agency of the Legislature, it must be done by a Convention. We are thrown back upon the people. It is conceded, I believe, on all hands, that the Constitution of 1821 was an improvement upon that of '77: and yet I have heard it whispered that a convention would be a dangerous expedient. Let me say, gentlemen, that if the people cannot be trusted in this matter, there is an end to the experiment of self-government. Let us hear no more encomiums on their virtue and intelligence. It is more than in vain to tell me of either, or of their fitness to rule, if they cannot be trusted to amend that instrument, which is to control those to whom they delegate power. The imputation is unjust. On the contrary, each generation is, to say the least, just as competent for self-government as that which preceded it, despite the opinion of those who think that wisdom will die with them. Why, gentlemen, all legislation, to a certain extent, is experimental, and government as a science, inductive; and although we are called upon to remove existing evils and correct present abuses, yet, beyond the present, there is no certain legislation. The future belongs to another generation. "Sufficient for the day is the evil thereof." To correct this evil is our duty; for this we assemble here this evening. Nor, speaking for myself, would I have this a mere party movement. It is one in which the honest men of all parties can and should unite. I would deprecate the adoption of any amendments by a mere strict party vote. Nor do I apprehend any such result. It is a matter which belongs to the whole people, and I believe they will take the matter in hand and consummate the work now begun; not rashly or unadvisedly, but wisely and well.

On motion of Wm. Cassidy, the Chair appointed the following a committee to report resolutions for the consideration of the meeting:

Wm. Cassidy, Thomas D. James, Henry O'Reilly, Edward Brinckerhoff, Wm. McKoy, George B. Steele, Wm. G. Bishop, Isaac Vanderpoel, John E. Hermans and Nelson Salisbury.

During the absence of the committee on Resolutions, Mr. Robert E. Temple, of Albany, was loudly called for, who appeared and addressed the meeting as follows:

FELLOW CITIZENS:—It is with unfeigned diffidence that I attempt to address you on the important matter for the consideration of which we have met together. The subject involves the most vital interests of the whole community. We have met to form an Association for the purpose of effecting the alteration of the Constitution of this State, through the medium of a State Convention. The public voice unequivocally declares that several amendments are necessary; but there is a difference of opinion as to the best manner of making them. Some think that we ought to rely upon the Legislature to propose them, in the way pointed out in our present Constitution; but those who have called this meeting, are of the firm conviction that many of the desired reforms can never be secured through that agency.

What is the power of the Legislature in this matter? The Constitution says that the Legislature may propose amendments by a majority vote; and if the next succeeding Legislature agree to the amendments by a vote of two-thirds of all the members elected to each house, then it

shall be their duty to submit them to the direct vote of the people. Some of the amendments which the people demand, may, perhaps, be obtained in this manner. The one depriving the Legislature of the power to run the State in debt is so emphatically demanded that I believe the Legislature will feel compelled to recommend it, however much it may be opposed by some individuals.

All who hear me, well know how deeply and dangerously we have been plunged in debt within the last few years; and we all know too that if that wild and wicked policy had not been effectually arrested in 1842, we should now have been overwhelmed with bankruptcy, disgrace and ruin. The heavy burthens which we have incurred, and the irretrievable disgrace which we so narrowly escaped, have produced a settled determination in the public mind to have the Constitution so amended as to prevent a recurrence of similar disasters; and the Legislature, however much inclined to the contrary, will be forced to bow to the will of the people. But there is another amendment of vast importance to the community, and which I am convinced is earnestly desired by a large majority of the people of this State; but which, I do not hesitate to say, can never be effected through the Legislature. I mean an amendment making the stockholders of banks, and all other corporations, personally responsible for the debts of the company. To hope that such a recommendation will ever pass by a vote of two-thirds of all the members elected to both the Senate and Assembly, is utterly preposterous. The *third house*, the all-powerful LOBBY, which is more than a match for the other two, will never permit it; and a Convention is our only chance for obtaining this important amendment.

It is at least doubtful whether or not all of our banks are not in violation of that part of the Constitution of the United States which forbids any State to issue bills of credit; and it is more than suspected by many, that all issues of State stock scrip ought to be placed in the same category. But let that pass. Banks are nearly coeval with our existence as an independent State; and the business transactions of the country have become so intimately connected with the currency of bank paper, that the former are in a considerable degree dependent on the latter. Since, however, the State authorizes the issue of paper for a currency, it is bound by the most solemn obligation to protect the bill-holder from any depreciation of the paper, and guarantee that it shall be as good as silver or gold; and so far as I am acquainted with public opinion, every fair-minded man is in favor of giving the bill-holder the additional security of making every stockholder of a bank, individually liable for the paper which it issues. But, if there is any one who thinks that this amendment to the Constitution will ever be recommended by two-thirds of the members elected to each branch of the Legislature, I can only say that I pity his credulity.

The courts of justice, from the highest to the lowest, require such radical changes as will not only secure justice, but speedy justice; and many of the best minds in our State are satisfied that our Court of Errors should be wholly separate from, and independent of, the Legislature. My desire to be brief will not admit of my enlarging upon these important points. They will be far



more ably discussed by the Hon. Michael Hoffman, of Herkimer, who is present, and has consented to address you this evening.

The great and unnecessary waste of time by the Legislature, in acting upon local matters, which could be much better regulated by the people of each county, or by the board of supervisors;—the enormous, and worse than useless, appointing power of the Executive—much of which could, with benefit to all parties, be transferred to the people—and other matters, the details of which would occupy more time than I am at liberty to consume, are fit subjects for the consideration of a Convention, which it is believed is the only avenue through which we can obtain the desired redress of grievances.

I would suggest that it would be far more democratic, more satisfactory to the people and more just to minorities, to have each member of the Assembly, and perhaps of the Senate, elected from a specified district, instead of electing them at large, as at present practised in each county.

All these matters, however, and others of much importance, must be settled hereafter. Our present purpose is to form an Association for promoting the advancement of the desired reforms; and the first and most important step is, to ask of the Legislature to pass a law, submitting to the people the question *whether or not they wish to have a Convention to amend the Constitution?* This much at least we have a right to DEMAND of the Legislature; and I trust no man will object to giving the people the opportunity of deciding upon the best manner of transacting their own business.

I am aware that there exists in the minds of many honest and well-meaning men an instinctive aversion to any change in our fundamental law, and a vague fear—an indefinite apprehension—that great mischief will arise from an agitation of the subject by the mass of the people. But I feel the utmost confidence that these fallacious alarms will vanish before the light of free discussion and more mature reflection. Away then with all doubts of the ability of the people to take good care of their own interests! Such doubts imply that our whole political system, which we are accustomed to extol so highly, is a mere mockery.

This is no partizan question. It invokes the aid of the best men of every party and of every faith, and I sincerely hope that it may be discussed in that spirit of frankness, liberality and manly independence, which its importance has a right to claim from the active, wise and good men of all classes and all parties.

I have already occupied more time than I intended, and will therefore abstain from further remarks. I leave to able hands the further illustration of these important subjects. The Hon. Michael Hoffman, as I have before remarked, is present this evening, by particular request, and will address you immediately after the resolutions have been acted on. You all know that he is one of the earliest, ablest and most zealous champions of the cause which we are met to advocate.

The committee on Resolutions, through their Chairman, Wm. Cassidy, reported the following, which were unanimously adopted:

Whereas, The people of this State are now suffering under the excesses of partial, local, temporary and private legislation; are burdened with a debt of \$27,000,000, the first fruits of a profli-

gate system of legislation, which threatens to entail still greater evils on their posterity; are surrounded by corporate monopolies, strong by the combination of associated wealth, and rendered stronger by governmental immunities, granted at the expense of private rights; are without that cheap and prompt remedy for wrongs, which it is the first and chief duty of the State to furnish through its courts of justice: And whereas the tendency of past legislation has been to make the State stronger and the people weaker, threatening in the future to render government a power above the people, too high for responsibility and too strong for control: And whereas the present Constitution of this State has not adequately guarded the rights of the people against the action of their representatives or their construction of their own powers:

Resolved, That we believe the Constitution of this State needs revision and vital and elemental modifications, both in the extent of the power to be delegated by the people and in the manner of its administration; that these changes include the entire prohibition of the right of government to entail a public debt upon the people, except in time of war or insurrection, without their consent expressed directly through the ballot-boxes; and also the right to erect privileged incorporations, the members of which shall enjoy a dispensation from the ordinary obligations of debt; that they also contemplate the limitation of the central power of government, by the return to the people in their town and county organizations, first, of the power of the legislature over matters of merely sectional interest, and second, of the power of the Executive over the local administrative and judicial officers of the State; that they contemplate also such a modification of the State judiciary as shall ensure to the people a cheap and prompt administration of justice, and dispense with the necessity of a tribunal of last resort, armed both with judicial and legislative power, and using one to justify and fortify the other.

Resolved, That we seek these changes through the agency of a CONVENTION, constituted by law, and representing the whole people; because repeated unavailing efforts by the people have shown that it is hopeless to seek of the representative body the limitation of its own power; because the combination of local and corporate interests, in that body, are already armed, by the Constitution, with a veto power against the people, which will almost inevitably defeat the popular will; because we believe, with Jefferson, that a solemn opportunity should be afforded to each generation to reconsider and revise the charter of their rights and liberties, to accommodate it to the circumstances in which they live, and to renew in its behalf the expression of their loyalty and devotion.

Resolved, That we invite discussion on the subject of these reforms, because seeking nothing but what is right, we believe that by careful and anxious investigation only can error be avoided, and because we would have the expression of the popular mind, to be free from haste or passion, wholly deliberate, and such as becomes a free and enlightened people.

Resolved, That in urging these reforms in the character of our institutions, we look to the democratic sentiment as the only instrumentality by which they can be effected: That we claim to hold communion with the party which is the exponent of that sentiment, which alone in the past

has been identified with the cause of reform, and to which chiefly we can look for future progressive action in government: That while we claim to have found no new tests of attachment to the people, and do not seek to proscribe the brethren of our political faith who differ with us as to the nature and extent of reform, but are sincerely desirous of their co-operation; we will not permit the exercise of a spirit of proscription or exclusion on their part, or be forced to look for a higher sanction of our course on this subject than the will of the people.

Resolved, That in order to carry out the views of the friends of reform, we deem it advisable to organize a Democratic Reform Association, in the city of Albany, whose object shall be, by discussions and by legitimate effort of all kinds, to awaken the public mind to the necessity of a convention, and to procure from the Legislature, as soon as possible, a law submitting to the determination of the people themselves, the question, whether or not they will have a Convention.

MICHAEL HOFFMAN, of Herkimer, being present, was loudly called for, and came forward and addressed the meeting:—

MR. CHAIRMAN: On an occasion like this, when called upon to address you upon a subject the very nature of which is to seek the good of our fellow men, it affords me great satisfaction to find, at this inclement season, so many of my fellow-citizens give their attendance to devote themselves to the consideration of Constitutional Reform. In addressing you at this time, the difficulty is not to find what to say, but to make such a selection, from the great variety of subjects that press upon us, as may be understandingly discussed within the compass of a single discourse. We have been, and are prone upon almost all occasions, to content ourselves to live under almost any bearable institutions. It is almost the last thing which enters our minds, to change the great institutions of the society of which we are members. It is only when evils are sensible and tangible—when they become almost if not entirely insupportable, that we are induced to engage in any serious reform. It is the misfortune of human society to bear with existing evils until they have increased beyond the control of order and reason; and the result is, that strong and deep agitations are necessary to effect a reform, which must then be effected rather by violence than by the dictates of reason and sober judgment. From the very nature of our institutions, our attention should be called to this subject of reform, as early as possible, and I think I shall be able to show you, without any very serious tax upon your patience, that we have not now to anticipate evils—that we have waited until they press heavily upon us—that there is an absolute necessity for us to reform them, or they will reform us. (Cheers.)

In what I shall say in favor of Constitutional Reform, I shall not ask you to follow me in the discussion of any great theoretical principle. I well know that all legislation—especially that which makes our Constitutions—should be in strict adherence to sound principles. This is indispensable, and if we fail to observe this rule we shall fail in the success of our measures. But when I find great and severe evils pressing on men, I would first call upon them to reform these evils,—to adjudicate upon them,—to act upon them,—to get them out of the way, before we go into the constitution of the great fundamental

principles of government. Now, what are the great evils, under which, as a people, we are now laboring? A great, civilized and independent society, such as we are, should have a safe financial system—should possess a safe and sound currency—should enjoy the advantages of an efficient and satisfactory judicial administration. These are not merely auxiliaries, of life—they are absolute necessities without which society cannot exist and prosper. Let us look then at these various interests, and see if we have enjoyed them, or are likely to do so in future.

In 1842, since which you have not moved an inch, you had an ascertained debt of \$27,000,000. You were a new people. Your country was scarcely a century old. You were an industrious people. The Legislature of 1842 added half a million more of debt, not computed in the sum just named. Last session \$720,000 more was added, and we know that there are claims of contractors to a very large extent yet unsatisfied. And if we add to this the great amount of land damages, yet unappraised and unpaid, you will make a debt of over \$28,000,000. This is where we are. More than \$10,000,000 of this debt becomes due in eight years—more than \$5,000,000 of this ten, is to be paid before the first of January, 1846. This is the history of the matter, and I will ask your sober judgment if this is an evidence of a safe system of finance? The interest on this debt is about \$1,400,000 annually; and this drain, when it goes to foreign countries, for there much of our debt is due, is never to return; and when paid to our own citizens takes so much from the labor, the industry of the hard-working citizens, and transfers it to the idle and the unproductive class of community—(cheers.) But yet, I say, gather all the crumbs from under your table—bring all you can together, to pay off this debt as fast as it shall fall due, and yet before it will be wholly extinguished, the tax-gatherer will take from your property fifty millions of dollars! Again I ask, is this a safe financial system? Is this the best course for a young, a valiant, an intelligent, an enterprising and a free people?

And have we got nothing for all this? Yes, fellow citizens, we have got just nothing! I correct myself—you have got less than nothing—absolutely less than nothing. Watch, and see if such is not the case. You had a General Fund amounting to about \$3,000,000. It is gone. Find it if you can. If you do, you find it with the tax-gatherer. You had \$5,200,000 of mortgages from incorporate companies. One of \$200,000 realized but a mere nominal sum from the sale of the bankrupt company from which it was taken. Another of greater amount brought a still smaller sum. A third was, at the last session, without any equivalent, made a gift to the most bankrupt and irresponsible concern of all—one that was an assigned insolvent. So much for these. There are still remaining \$1,720,000 of these mortgages upon other companies, and it remains to be seen whether the men who would vote to give \$3,000,000 to the worst and most fraudulent of all, will enforce payment from those who have conducted their affairs better. It is barely possible, that the men who have loaned this \$1,720,000, are too dignified—too high-minded, to bear the reproach of having robbed a free and generous people. They may pay this debt, and cancel the mortgages now standing against you.

Then too, we have the lateral canals, which in their whole history have never paid one dollar of interest upon the debt created for their construction.

No! they have never been able to pay their current expenses. The Treasury, or in other words, the Erie and Champlain canal, have been compelled to pay a part of the current expenses of these lateral canals each year. I ask, is that property which brings nothing but charges? Does that give, which takes nothing but money?—which takes the tolls from the Erie and Champlain canals, to be replaced by the tax-gatherer? But you may suppose you have got the Erie and Champlain canals—that they have been paid for by this debt, and they are now free. No! not all. Turn to the statistical tables which have been laid before the Legislature for years, and you will see that the auction tax, the salt tax, the steamboat tax and the land sales, have paid for the Erie and Champlain canals. The principal sum of these revenues you will find to be about \$5,500,000. Estimate, with this, the interest, and you will find a sum, principal and interest, exceeding the entire Erie and Champlain canal debt. If we have these canals, they have been paid for by taxes drawn from you. Perhaps I am wrong in saying that no part of this debt has come from the canals. Two millions are yet unpaid. The means for that payment were provided, but the State has been forced to use a part of these means, which it must refund out of the proceeds of the mill tax. Half a million has been lost by loans to banks which have become bankrupt and were irresponsible from the beginning. Let me ask you what you have lost by this debtor system? You have got nothing. What have you lost? You see the State in debt—your cities in debt—your towns, your counties in debt—and your people in debt, seduced by this false and delusive system which has been so fostered by legislation. Turn to the history of the Erie and Champlain canals—where we may speak not from conjecture, but from the certainty of truth. You had a General Fund when you began these works. You had the salt tax, the auction tax, the canal tolls, the steamboat tax, and the land sales, up to 1825, when the canals were fully completed. Had you added to this a tax of \$350,000 for each of the eight years they were in construction, you would have had both these canals constructed without a single dollar of debt. Had this prompt pay and direct taxation system been pursued in the construction of those canals, we should then have had the entire surplus tolls as funds at our disposal. These would, ere this, have amounted to \$22,000,000; and beyond their repairs, this would have left a sum sufficient to pay for every lateral canal, made or begun, and then have left \$5,000,000 to appropriate, either for the Erie Enlargement, or the railroad debts. That would have been our condition now. Then we should have had a surplus of at least \$1,000,000 a year, instead of being compelled to pay an annual interest of \$1,400,000. Instead of being saddled with a burdensome debt, we should have had a handsome fund at our disposal. Instead of that, we cannot now stir from where we are, until we have entirely relieved ourselves from the thralldom of debt.

There is one thing more to be taken into consideration, and that is the mill tax. How long it will last, it is impossible to determine. Its nature and character, while it does last, deserve our serious consideration. We compose about one-sixth of the whole Union. We are indirectly taxed over one-sixth of the annual expenses of the Union, amounting to some four or five millions of dollars. This is principally collected in the business season. That, too, is the season in which the canal tolls are paid, amounting to some \$2,000,000 more—and the salt and auction duties some \$2,000,000 more. In the

winter, business has ceased; and then it is that the tax-gatherer goes round to collect your State, your city, your county and your town taxes, amounting in the aggregate to some four and a quarter millions of dollars. Some part of this is undoubtedly paid by discounts upon town and county orders. Suppose this amount to be one and a quarter millions of dollars, and you have left three millions of taxes to be collected in the dead of winter. And this, too, is to be paid in money. The whole currency of the State at this season is but about \$7,500,000. There is no coin in circulation. This \$3,000,000 is to be collected out of the bank paper in circulation. A part of this paper is in Ohio, in Indiana, in Illinois, in Michigan. Deduct this, and if you find at this season \$6,000,000 of bank paper afloat, you may consider it a fortunate circumstance. And yet it is then that the tax-gatherer is sent to collect \$3,000,000 from a people whose entire currency is reduced to \$6,000,000. I know not what the opinions of other men may be, but when I look at the debts and the experience of other countries—of Holland and of Britain, I fear we may be compelled to do as they have been obliged to do, when the tax presses so heavily that they are forced to divide it—collect a part only at once, and wait until the money collected has been again returned to circulation among the people, before the other part is called for. Yes, we have a debt, British in amount, British in the drain it will make upon our hard earnings, and British in its character and results. Shall argument be needed to induce us to guard against such a tax? Why did our ancestors quit their native country, but to be preserved from the iron arm of taxation? Did they not resist the British tax unto blood, and are you so fond of what they died to resist? Will you court and hug it to your bosoms as the choicest of blessings? (Cheers) No! no! It will prove the same curse here that it has elsewhere. It cursed our parents, until they united and threw it off by the shedding of their own blood. It should be avoided at all hazards. We should guard against all the ways which lead to it: For we may rest assured that those who go down into the depths of the channel, will be swallowed up in the waves. (Cheers.)

There is one more subject—that of the currency, nearly allied to the system of finance, of which I have been speaking. In truth, it is about one and the same thing in the end. I know it is the common mode, when great mischiefs grow out of any system, to attribute them to the men who have been entrusted with its development. I admit that our present Banking system has drawn bad men into it—that it has made doubtful men bad. But I cannot attribute to bankers and brokers alone, the evils of the banking system. When the men have been as bad as the system, they have gone down to swift destruction. Look at the Eighth District. Look at the West. Slight as has been the virtue of the bankers, it has been the moral merits of the men which have sustained the system. There are the seeds of death in the system. It requires great moral strength to resist the temptation offered, and to sustain a good character. (Cheers.) Banks have been instituted for a three-fold purpose. First, to loan their capital. Second, to receive deposits and settle balances. No man in America, I am confident, will object to either of these two objects. Nor, I apprehend, would any banker refuse to make himself individually responsible for the debts of such an institution. I have nothing to say in regard to banks pursuing only these powers. They would commend themselves to general favor and acceptance. But not content

with these privileges, there must be banks of issue. The Legislature has taken away from individuals the power to sell their credit, and has granted, to corporations—to an irresponsible power, the exclusive right to issue paper, as a representative of money. If there is one set of obligations more sacred than another, it is this species, so authorized in lieu of actual value. Here, by special charter, or under the provisions of the general banking act, the banker issues his paper. He is made irresponsible, or at the utmost, only to the amount of stock which he may happen to own—and this is in fact, nothing. Let the bank be in danger of failing, and you will see what has often been witnessed, the banker selling out his stock to some one not in the secret. (Cheers.) In fact, he is not responsible at all. It is the holder of the bill—the day laborer—the man who has parted with his goods, that, by the wisdom of the state, is made responsible. (Cheers.)

See how this terrible system has worked. Its practical effects come home to us all. In 1834, the Legislature was made to believe that a class of these institutions were endangered by a threat from an institution in another State. The credit of the state to the amount of \$6,000,000 was offered to sustain these institutions. In other words, Commissioners were authorized to throw the credit of the state to that amount into the market to purchase the means to pay the bills of these banks. Great diversities of opinion existed in relation to the sound policy of that law. Those who had shown themselves least in favor of granting charters to banks, were in favor of lending this aid,—whilst those who had on all occasions evinced their willingness to grant all the charters asked for, were now found in the opposition. I will not undertake to determine whether that was a wise or a foolish law. A difference of opinion may exist among you in regard to it. But I say, it proves this fact, that the Legislature believed the banks were then too weak to stand without this aid from the state. Passing over a single year, we come to 1836. And here we find the maxim adopted that some four or five millions must be added to this mass. A variety of charters was granted. The result has been, that every one of these additional banks have broken, except, I believe, one. Come down to 1837, and what do we find then? Why, the suspension act. And what was that? It is well to consider it for a moment, for it has been variously understood. No one will pretend that one man in twenty in the whole state, ever had or expected to have a bank accommodation. Nineteen-twentieths of the people had bills of these banks in their pockets, of a less amount than \$50, and yet amounting in the aggregate to many millions. On the notes taken for these bills, the banks received interest, while the holders were the creditors of the bank without interest. The Legislature had by law before declared that if any man should sue these banks for a less sum than \$50, he should be punished with costs. The only remedy granted to the holders was the vigilance of the Bank Commissioners, and the forfeiture of the charter. This only remedy was swept away. In plain English, that Legislature said, if you are not able to hold in your possession \$50 of these notes, you shall not sue the bank—if you do, you shall pay the costs of suit. At the same time it took away your only remedy—the forfeiture of the charter consequent upon non-payment of its issues. But if you were able to hold \$50 or over, you might sue them and saddle the costs upon the

bank. This was what was said in that suspension act. It is not at all surprising that such a proceeding should have overthrown any one political party. The deep distress in the community, consequent upon such legislation, could not fail to excite bitter hostility. Such impious acts could not go unpunished. They have been punished, and ever will be as often as they are committed. (Cheers.)

What else? This is followed up by the failure of eleven safety-fund banks—I believe I am right in the number; I am not sure whether there is not one more. Then followed the explosion of twenty-six of the free banks. The united capital of all these bankrupt banks was some \$5,000,000. The first shave on their notes amounted to more than \$600,000. And most of them were shaved with a knife, and blood followed the cut. (Cheers and laughter.) The failure of these banks swept away the safety fund. I will not go into its history. It has gone to the tomb of the Capulets. The Bank Commissioners had lost the power to speak for the masses, and they went overboard too. (Cheers.) This failure carried with it half a million of the Erie and Champlain old canal fund, and a quarter million of canal tolls on deposit in anticipation of opening the canals in 1842.

The bloated paper currency of twenty millions, which had grown up like a foul exhalation, fostered by the madness and recklessness of legislation, had been touched with the pruning knife, by the hand of time; it had shrunk and shrivelled until but six or eight millions were left. This was the season when so many collapses prevailed. The state owed the banks; and the bills loaned to the state returned on them, and they were forced to put the screws upon their customers to meet the necessary demands. The debts of their dealers had been created when there were twenty millions of paper. It has to be paid with only eight. What was then felt and seen, surprised no one who had seen the legislation and scientific measures adopted to bring about such a result. (Cheers.) I know that the merchant supposed, and so the speculator took good care to tell him, that he was the peculiar favorite of the banks. True, it would not do for the banks to rely upon corner lots, tavern stands, paper cities and wild lands. They wished to make loans to men of large personal property, on whom they might turn the screws to some effect. On corner lots and such like species of property, they would turn the screws in vain. They wanted men of substantial personal property; property which they could bring to the hammer and make to pay their debt. (A voice, "That's the talk.") Hence the merchant and the business-man were made to feel that they were not the favorites of this system, but its victims. (Cheers.)

I ask, when has all this transpired? This debt has been rolled up—these banks have failed in a time of profound peace—of abundance and sound health. I ask, if our commerce should be again threatened—if we should be invaded—and a hostile army tread our shores, how could you manage this debt, and defend your territory, loaded down with debt, and a paper currency ready to flash at the first priming? The United States, it is true, are little better off. Your sister States are equally oppressed with debt. When then you shall be called upon to gird on your arms for the fight, where can you make loans? State after



State refusing to pay even the interest on their present debts, how could the United States borrow a dollar of money out of the United States? In a time of peace, we should make all safe, not only for peace but for war. Who knows but during the long time which will elapse before these debts are paid, we may be compelled to meet an enemy in conflict, and try conclusions with the Tyrant of the Ocean? Shall we go to war loaded down with debts?—unable to make loans, and thus cripple the arms of the Government which was intended to defend us? Is this wisdom? Shall it be continued? I answer, No! (Cheers.)

Take these two evils—can the State Legislature ever reform such abuses? And if it should, can it secure us against their future recurrence? No! No! legislatures are, they always have been, excellent in running us into debt; but they have never yet given evidence of a disposition for payment of debts. Look about you. England supports her lordly nobility, by hereditary estate and taxes wrung from the poor. But look at more than two millions of her population, locked up in factories worse than Bastilles, suffering and degraded to the level of the brutes, until even one of her most gifted daughters has been forced to say, "It was well for children to die before their time!" (Cheers.) But has England ever paid the first dollar of her debt? No! yearly, monthly, daily, nay hourly, does her debt accumulate. Strong as may be the iron power of her armies to crush, she has ever been weaker than a child to pay.

The United States did pay its debt incurred in war. Not that however which was caused by the Revolution. That was attempted to be got rid of by a process which merchants call *compounding*, but which financiers call *funding*—they are about one and the same thing in the end. It was by the iron hand of Jackson, and through his firm determination, that this debt was paid. (Tremendous cheers.) He said in his usual way, and with his wonted emphasis, "the debt shall be paid"—and it was. (Prolonged cheering.) Turn to your sister States—to the West—to Pennsylvania, an Atlantic State—to Maryland, another Atlantic State, and you see them borne down by errors of legislation, resulting in bankruptcy. But have those States ever paid a dollar of the debts their legislatures so profusely created? If so, when and where? No! they have been fertile in borrowing, until they have rolled up a great debt—but in *payment*, I do not believe they have moved the first step.

Look at our own State—it is well to be frank on this subject. From 1817 to 1821, the Legislature found the means by which it acquired credit, and was enabled to make loans. But was it the Legislature which provided for the payment of the Erie and Champlain canal debt? No! It was the convention of 1821, which tied up the canal tolls, the salt tax, the auction tax, the land sales, and the steamboat tax, and took away from the Legislature the power to divert them to any other purpose except the liquidation of this debt. Look at the history of the State. As long as the State officers were supported by this constitutional restraint, the State crept on slowly, but not without a small debt. But when, in 1835, the finances of the State crept from under this restraint, then it was that ruthless hands were laid upon the treasury. And since then, with horse-racing speed—aye, more, with the speed of a locomotive—we have gone

down in our downward course, until we find in six years our debts increased \$20,000,000. The Legislature of 1842 found itself absolutely unable to resist the pressure of circumstances. What was our condition? I say that they acted from a powerful necessity. Our credit had run down to 50 cents on the dollar; we had \$76,000 of canal revenues, and about the same amount in the treasury. The interest on the debt of the N. Y. & Erie Railroad Company was about to fall upon the treasury. It *did* fall there. In March and April, \$241,000 of interest on the canal debt was to fall due. There was overdue to banks, on short or temporary loans, \$1,613,000. There was then due to contractors \$1,500,000. Since then we find a million and a half more dues for contracts, pressing upon the Legislature. Although, by the Constitution, it takes a two-third vote to grant or alter a bank charter, yet it was found that, by mere majority votes, the Legislature had contrived to get out of the banks \$3,600,000 on long stock, and \$1,613,000 on short or temporary loans; and there was deposited with the Comptroller \$1,100,000 in the shape of securities for the redemption of red-back bills. If the interest then falling due had not been paid, these banks would have gone down; we should have been cursed with another bank suspension, without the means of getting out. But we manfully met the crisis. And yet, when the Comptroller went to New-York to pay the April interest, he had not the money in his hands to do it. He was compelled to anticipate a part of the auction tax and to anticipate the canal tolls, to obtain the means to open the navigation of the canals. Now, if it is supposed by any, that under different circumstances, the Legislature would resist the temptation to again run the State in debt, he reasons against all human experience. I am perfectly satisfied that as soon as our credit would be worth anything, we should find this debt again growing upon us. We have already \$25,000,000 of works begun under this system. We have estimates for other works 'deferred,' to the amount of \$26,000,000, but which could not be completed for less than \$50,000,000. Why came these works and the system into existence? Because they were found a good means to procure votes at elections. And when again you have the same means of temptation, you will find the flood will be as strong as the last. Our only appeal is to the generous hearts of the people—our only safeguard, when their iron nerve and determined will shall have written the prohibition in the Constitution ("Hear" and cheers.)

Let us look at this subject as men of courage should. What shall we do? I am frank to advise, according to the best of my convictions. I do not pretend to say that my conclusions are better than those of others who have examined the subject. I have arrived at the conclusion, that it is our duty to see that our Constitution be so amended that the revenues appropriated to the payment of the present debt must be applied to that purpose, without power in the Legislature to divert these moneys, until we know to a certainty that the debt, and with it the tax, have ceased—(cheers.) I would prohibit the Legislature from running into debt without the direct assent of the voters interested in its payment. I wish I had the time and the strength to explain more fully what has been called the "People's Resolution." I ask you to read it carefully. If you think it is not strict enough, add your own reflections to it; and if its consideration should ever come before a Convention, let no one be backward in calling for what is wanting to make it perfect—(cheers.)

In every business which has any claim to our consideration, except that of banking alone, we hold all concerned responsible for the whole. It is so with the merchant—it is so with the manufacturer and the mechanic, and, thank God! it is so with the farmer, or we should starve. Place agricultural pursuits upon an irresponsible footing, and we should starve. We need an amendment of the Constitution, which shall make the banker who issues paper money personally responsible for the whole redemption of his issues—(cheers.) There is no reason why a banker should not be as much esteemed and as useful as any other class. Make him thus responsible for his debts, and he will stand up in continuity respected by all—possessing the confidence of all. You have seen, fellow-citizens, that when the State seeks the means to produce a general bankruptcy, it first borrows from the banks, and they by this means are brought down. Every bank charter in the State has a clause which provides that no bank shall deal in stocks; but we see that they have thus dealt with them. When it became necessary to bankrupt the State, it also became necessary to bankrupt the State banks. The banks were compelled to screw their customers as soon as they found the State stock unsaleable—(cheers.) There should be in the Constitution an irrevocable clause, that no bank that issues money should deal in stocks—especially State stocks—for experience has shown that they are quite as fanciful as Harlem railroad stock. (Cheers.)

One word more on the subject of banks. Now, when a bank fails, it is the poor laborer, who happens to hold its bill, who is subjected to the process of shaving. By process of law, the poor, honest man must be defrauded! This is all wrong. If the banks must be allowed to issue bills smaller than the coins in general use, the holders should be entirely secure. Of these, so called small bills, used as a substitute for coin, their should not be a dollar issued until the bank has placed in the hands of some public officer the coin for its redemption, if the bank should go down. Thus, and thus only, would the poor man be saved from the knife of the barber. (Cheers.) I say such a clause should be inserted in the Constitution—a provision that the person or bank which should issue its paper in sums as small as the coins, should leave with some appointed officer—not State stock—but the coin, equal in value to the promises to pay. Then, only, would labor receive its due reward. (Cheers.)

Take all these propositions together, and will the legislature of the State ever secure the adoption of such amendments? No! no!! NO!!! We have tried them on the "People's Resolution," relating to only one of these reforms, three times, and never yet has a majority been found. And will any man hazard his character for common sense, by supposing that it could ever be carried by a two-third vote! if so, let him say so. Altho' I do not set very high value on my character, yet I would never hazard such an expectation. I believe, if even passed by a majority, they would be defeated on the two-third vote of the next session. We would find absentees—members keeping out of way—being very conveniently sick, or some such excuse—and it requires but one-third to be thus disposed of, to defeat the whole measure—(Cheers.) Do you believe the Legislature will ever make the amendments to the Constitution in relation to banks? The Syracuse convention, which placed in nomination the present Executive, recommended unanimously such a provision—to make the bankers individually responsible. Gov.

Boock received a large support from those favorable to such a project. He recommended it in his message to the serious consideration of the Legislature. If you, fellow citizens, know what that Legislature did in pursuance of that recommendation, you know more than I do—(Cheers.) Can they, think you, after acting like this, be trusted to amend the Constitution, by placing restrictions upon bankers? No! no! Are we Bourbons? Yes, worse than the Bourbons! if we permit these evils to remain; for their stupid mischief was entailed upon others, but we shall bring all upon ourselves, if we suffer these things to continue—(Cheers.) No! I do not believe the Legislature can deal with this subject. Quashee may believe in his Mumbo-Jumbo; but surely, no man with a white skin, who has any brains, can look at the Legislatures which have past, and in the presence of God, with his hand upon his heart, say he believes the Legislature will ever do what is here proposed. No! it is impossible—(Cheers.)

There are other subjects connected with this question, either directly or indirectly; but I have not the strength to discuss them as I could wish. The power of corporations, cities, villages, &c., to roll up debts and taxes, should be checked. We have had experience of these evils. I believe there is nothing which can resist them, without an amendment of the Constitution. The question has its difficulties. Nothing will be found strong enough to stop the downward course of these debt-creating corporations, except the iron hand of the people. Unless arrested, these debts will have their natural operation. The man in the city will own nothing, except what is out of the city, lest it should be swallowed up with taxation. He will place all his property in the country; and, finally, he will go there himself; for his interest will call upon him to avoid what he cannot restrain. Those irresponsible corporations, too, not connected with banking—if the legislature would create these crippled beings to torment living men, they should be obliged to enact provisions that they shall not create debts, unless the payment is made sure.

In relation to Executive patronage. I am not able to discuss this as it deserves. I hardly dare trust myself to speak of it; for I can never think of the subject without exciting feelings of the most intense indignation. In this city, particularly, it cannot be necessary to make an argument to convince you, that the sooner this patronage goes to its owners, the better. For my own part, there is no patronage within the control of the central part of your government which I can ever desire. But experience has shown too well, that when patronage once comes to the centre of government, you can never get it away.

There is one subject which is not sufficiently understood. As I have erred myself in relation to it, I feel more sensibly the importance of its correct understanding. We have a School Fund, a Literature Fund, and a Deposit Fund—the two first and the interest of the last, being devoted to the purposes of education; that is to say, to train up the infant children of the land, in the great principles of humanity; to fit their minds for earth and heaven; to raise them from that brute condition which ever results from oppression. These funds are devoted to this sacred purpose. Now, it appears to me, that when those funds are diverted, they cannot be got back without a resort to taxation—

that they are in fact destroyed. I say, destroyed, because the power of taxation existed before. And yet these funds have been diverted from their sacred uses, and appropriated for State purposes. These Funds hold the stocks of the State, and if the credit of the State falls, a direct tax must be resorted to, to supply the deficiency. Now, I say, where I have contributed to such a result, I have done wrong. If any country, having such a fund, should be invaded, and a conqueror should lay his hand upon these funds, you would call him a thief and robber—and rightly, too—(cheers.) If, then, an invader could not commit this outrage, neither can the State. No! not even for the purposes of defence. The trust is sacred. The State has no right to it even for military operations in time of war. I believe there should be the strong guarantee of the Constitution, that these funds shall be kept sacred. Look at Pennsylvania and Maryland. Sunk in bankruptcy as they are, do you believe that had they possessed such funds, they would now have been available for the sacred purposes for which they were set apart? No, they would be gone, and their place be supplied with State scrip worth 40 cents on the dollar. If this be not a parent devouring his own child, I know not what such brutality is—(cheers.)

One word in relation to our judicial system. All men are entitled to justice, duly and properly administered. In my opinion, our present judges do as well as they can. I have no complaint to make of them. It is the system which I arraign. When we were but half a million of people, we had but one Supreme Court, and a Court of Chancery. The appeal cases to the Court for the Correction of Errors were very few. In the early history of our State, there were scarcely any. The system was then wise, and efficient enough for the wants of the population. Now, we are more than two and a half million of people, spread over a vast country, with as great a variety of pursuits as the ingenuity of man can devise. We now have a sufficient number of the judicial corps, but how are they organized? We have eight Circuit Judges, who hold circuits and do some chancery business. But these men never render judgment. The only men seen in public have nothing to do with entering judgment. The Supreme Court is locked up in a cell. They are not seen by the men upon whose interests they adjudicate. The judgment comes as from the earth. It may indeed be articulate, but no one hears it—no one is satisfied with it. Hence it is that the Court for the Correction of Errors are compelled to sit nearly two-thirds of the year to hear appeals. Is this desirable? Must we have only as many courts as when we were half a million of people? What is the remedy—shall we break the skulls of two millions of our people, and so reduce our population and business to the capacity of our judicial system? That is the course recommended by our inaction and failures to improve the system. Amend the Constitution, and leave this whole subject to be determined as the exigencies of the case may require. Let the legislature create either two or four Supreme Courts, and give them Chancery powers. Leave the Court of Chancery as it is now, if you please—a one-man power, or make it a four-man power, if that is thought most advisable. Then we could have law and equity administered, as well as when we had

but half a million of people. The decisions of these courts, too, would be satisfactory. The judge would sit at Nisi Prius. He would be watched by the parties interested. He would be a living man, surrounded by living men. He would sit at the bar, and be surrounded by the bar. I would make these judges, sitting together, a Court of Last Resort. Men would have confidence in their decisions at Nisi Prius, and would not burthen the court of appeals. This would be an easy and safe system. How these judges should be appointed—whether by the Governor and Senate, or by the people themselves, I am not at all strenuous. My convictions are, that the latter is the best course. I am aware that this mode is not satisfactory to all; but because we may differ about the manner of appointment, shall we therefore not have them at all? Shall we therefore continue to labor under our present difficulties? Is that the part of wisdom? No! Let the Judges be appointed as you please, but let them be appointed so that they can *act*—and not complain of them for not acting in prison.

Another question here arises—can the Legislature be trusted to make this judicial reform? There is small encouragement that a Legislature will ever be found that will take away from the Senate the power to construe its own statutes and the constitution—to take away from it a controlling power over the laws and over the constitution—a power which has been exercised—which will be exercised. I say, give this power to a court which does not possess legislative power. Separate the two departments. *Make the laws in one—speak them in the other.* Let both be dependent on you—each independent of the other. While I prefer this mode of remedying the evil, I would not make my preferences a ground of refusing to create any remedy. Would it be sound prudence to quarrel about the manner in which the Supreme Court Judges and Chancellor should be appointed, and thus not have any? We should be as unwise now to defer action for such a reason, as would have been our fathers, had they, in the first instance, refused to erect any courts, for the same reason. I shall be satisfied with either mode of appointment. I prefer that the Judges should be elected as often as once in eight or ten years; say two in a year—and that all vacancies happening, be filled by the Governor and Senate.

I think a convention to review and revise the Constitution, should meet as often as once in twenty years. And why? Of all legislation, the most difficult and new, is that of making constitutions. In making laws, you have the experience of three thousand years to guide you. At least two thousand of the Roman civil law, and of those of the continent of Europe. But in the business of making constitutions, you must carve out your own way. There are no precedents here to guide you. You should therefore watch this with care. Examine diligently into the practical workings of the Constitution, and go to work with courage, to set right what experience has shown to be defective. If you say to an individual—no matter what his age may be—"You shall never be wiser," you speak to him the voice of doom. You pronounce upon him the most dreadful of curses. And shall we say of a Constitution—all unfinished as it necessarily must be, from the novelty of the undertaking—no propositions for amend-

ment or improvement must be made? As it is now, so must it die? As it is to-day, so must it continue forever? No! If your Legislature must meet every year to correct the errors of three thousand years, must a Convention of the State never meet to revise our Constitution, and correct its abuses? Yes! and I go a step further. Will legislatures then act as we have seen them heretofore? No! they will know that when the reviewing power sits in judgment upon their acts, they will not be able to hide themselves behind any false pretences. Time will tell whether they spoke true or false. Then will men feel their responsibility in legislation. They will then desire to record their votes—aye or no—for they will know that men of wisdom are to review their acts; and if they have perpetrated folly, they will apply the lash without mercy—(cheers.)

Viewing these several amendments, and considering the known repugnance of legislatures to undertake serious reforms, and aware as we are of the nature of the abuses under which we have suffered, and the certainty of their return, unless effectually checked, what shall be done? Shall we fold our arms, and say they are evils which we cannot get rid of by legislation, and that we are afraid of a Convention of the People to examine into the subject? Why this fear of a power to revise your Constitution? Look at the Parliament of Great Britain! Has not that body the power to amend the British Constitution every hour? Have they not possessed that power for three hundred years, with nothing to restrain its exercise? And we know that they have on several occasions exercised that privilege in favor of particular families. And yet, has Parliament ever been accused of an overweening desire to set to work to correct abuses? No! the danger is never that we shall do too much. The difficulty is that we will do too little. Let us at least correct abuses, if we do not anticipate them. We must have these evils corrected, or the result will be social bankruptcy. We must resist the power of legislation, or we shall go the way of the West—of Pennsylvania and of Maryland. For what have we been furnished by the God of Heaven, with faculties of reason and of judgment, if we are not to act? Social bankruptcy! What is it?—Go West, and see it as I have seen it. It is better to see it there, than to have it come to you. To learn such a lesson you can afford to travel over the whole West. Go there, and learn. Look at those bankrupt States, and say when will they get out of the depths in which they are sunk? Yes! when will they? When madness and distress shall drive them to call a Convention of the People to speak the way to get out—and not till then.

Is it wise to wait until this State is similarly situated? until bankruptcy shall drive you to call a Convention? Is not the course we propose better? What is it? First, the people are to be asked to say whether they will have a Convention or not. If they say yes, then they are to elect its members. The Convention then meets and discusses fully all these great subjects.

These discussions are circulated by the newspapers all over the State. Their influence is felt in every hamlet in the country. After the deliberations of the Convention are brought close, then the electors are to say whether they approve of its doings. I ask you, what have you known an instance, where men went to work in this sober manner—to deliberate and weigh well every proposed amendment, that they did not make an improvement upon what was before? Why then should men be so terrified at the thought of calling a Convention? I can see but one reason why we should not desire such a Convention. If we desire a continuance of these abuses—if by them we are enabled to enrich ourselves by the labor of others—then may we find an argument why there should be no Convention. But is it not the very purpose and destiny of life to make the great principles which govern human intercourse, approximate more and more near to the great principle of Right? This feeling is common to all. There are no diversities of life where it should not prevail. There is no man in whom it is not seated too deep to be eradicated.

I concur in the views and objects of your society. I trust you will go on and make your work sure—that the day may not be far distant when we shall have a Convention which shall remedy the great evils of which we have been speaking. Then may we securely go to rest, without the fear that we shall wake up bankrupts. Let us thus guard our rights, and we shall know that we are secure.

Mr. Hoffman resumed his seat amid the loud and long continued plaudits of the meeting. He spoke one hour and forty minutes.

On motion of Peter Cagger, the chair appointed a committee to organize a Democratic Reform Association for the county of Albany. The following were named as such committee:—Peter Cagger, Lyman J. Lloyd, John Simpson, Arthur C. Southwick, Charles H. Bramhall, Joseph C. Born, Cornelius Ten Broeck, Richard McCabe, Richard Godley.

A. J. Colvin offered the following resolution, which was unanimously adopted:

Resolved, That a committee of three be appointed to present a copy of the resolutions adopted by this meeting, to the Governor, and respectfully request him to transmit them, with his views on the subject, to the Legislature.

The Chair appointed the following gentlemen such committee: Andrew J. Colvin, Dudley Burwell, James M. French.

A. J. Colvin, then offered the following resolution:

Resolved, That the proceedings of this meeting be published in the State paper and in the Democratic papers throughout the State.

On motion, the meeting adjourned.

BRADFORD R. WOOD, President.

JAMES MCKOWN,	} V. Presidents.
CHARLES CHAPMAN,	
WILLIAM DAVIS,	} Secretaries.
JOSEPH C. V. PAIGE,	

March, 1843.



## THE HERKIMER MEMORIAL, ADOPTED BY A COUNTY CONVENTION.

*To the Legislature of the State of New-York:*

The undersigned, for themselves, and on behalf of their Democratic fellow citizens of the county of Herkimer, respectfully present the following

### MEMORIAL:

In approaching the Legislature as a part of the constituent body, to ask them to limit and restrain their own power by restoring to their constituents a part of their natural rights, we desire to speak with the frankness due to truth and our relation to the Representatives of the People. We ask the change, because we believe it to be essential to the enjoyment of those rights conferred by our Maker and inherited from our ancestors, and which it is our design and duty, at every hazard, to transmit unimpaired to our successors. The Legislature, we believe, ought not to possess the power to create debts, except by the express assent, freely given, by the direct vote of the constituent body. This opinion rests in part upon the nature of the subject, and is confirmed and demonstrated by the history of past legislation.

From the very nature of the subject, the legislation which creates state debts, differs essentially from almost every other species of legislative action. Debts may be, and often are, created to purchase political support, reward followers, pension dependents, gratify particular interests, or bribe particular localities. They may be, in part, concealed and disguised by being alleged to be conditional, on a contingency which is not likely soon to happen, as in case of the Rail-Road debt of \$5,235,700. They may be for works which it is assumed will meet both interest and principal, as has been alleged of every expenditure which has resulted in our present frightful indebtedness of more than \$27,000,000; though all that was ever paid, or provided to be paid, towards the principal of that debt, was known to have been provided by taxes collateral to the works, and not from the works themselves.

In their inception, the debts buy money, which is expended for the benefit of certain persons, classes, interests or localities. Hence the system has friends and supporters; but in the end it must cause a drain either by indirect, or more frequently by direct, taxation on that industry and labor which supports all and pays all. Although such a system may be unconstitutional, yet the scrip for the debt goes into the market, and is mingled with the scrip for the real debt of the state—is used as a means derived from the sovereign power to obtain money from the trustees of widows and orphans, and from all men who have laudable means; and it cannot be repudiated except by the ruin of those lenders, and at the same time sinking in the hands of the holders the scrip for the real debt of the state—an act of outright robbery on the public creditor.

The legislation on this subject, however weak, unwise or corrupt, while it keeps within the powers granted to it, creates a debt sacred in its nature, and which must be promptly met. In the hands of foreign citizens, its payment may be coerced by reprisals, or even war on the delinquent sovereign; and in the hands of foreigners or citizens, Earth would cry to Heaven for vengeance on a Sovereign, social

like ours, or an individual, like that of other countries, who should neglect or refuse to pay interest or principal the day it becomes due. A Sovereign not able to pay, is confessedly a fraudulent bankrupt; for having obtained the property without having provided the ways and means as certain for payment as it was certain the payment would come, nothing can justify his failure; and it can only be excused by resistless and inevitable necessity, and no longer than that necessity exists. Without necessity, his delinquency is certain to bring indelible infamy on his country—and even with it, the delinquency is certain to curse the country with universal distrust, fraud, corruption, and crime, to be expiated only by long sufferings and too often by the degradation and slavery of the masses. In every other species of legislation there is room for repentance and reformation; but here the debt once created, leaves only a choice of appalling alternatives. As in "the grave there is no change and no device," so here is reserved nought save the torture of that taxation which reduces the millions to poverty, misery, and beastly servitude on the one hand, or that sovereign delinquency, that worse than panic faith, which brings the worst of moral deaths, on the other.

Though the legislation that creates debts may, in doing it, purchase support, reward followers, bribe certain interests and localities, and thus for a brief period perpetuate its power, until the debt shall make the power worthless to its imbecile or corrupt possessors, yet, as the debt is a burthen, bound with strong bands of iron on the people,—as nothing sublimary can release them but payment—as the taxation, direct or indirect, is the cold steel which must be thrust home to their bosom, though it bleed their industry to faintness and to death, or until it furnishes the means of payment—as all the misery of payment is theirs, and all the infamy and corruption of failure must be borne by them—as they may be compelled to leave the debt and its frightful consequences as an inheritance to curse and scourge, degrade and enslave their children: whom, in obedience to God, they had hoped to bless—we assert that legislation, with all the revenues of the state at command—with unlimited powers of taxation for state purposes or emergencies, ought not, from the nature of the subject, also to possess the power to contract public debts, direct or contingent, except with the express consent of the elector, directly and deliberately given by his ballot.

In support of this position, we here remark that the state debt, the principal soon payable, the interest on it, the revenue, the bank failures, the condition of the currency, and the amount of state taxes, are the results of the wisdom of past legislation, sworn to provide for the public good, and for the equal rights and freedom of the citizens—acting under the responsibility of this high and solemn duty—in a period of profound peace, uninterrupted health, extended commerce and abundant harvests of production; and we proceed to state, briefly as we may, from the public documents within our reach, the results so alarming that no combination of folly or madness could have well produced more disastrous in so short a time.

1. By the Comptroller's Report, Assembly Document, 1843, No. 10, p. 6, it appears that the state debt, including loans to incorporated companies and the debt due the specific funds, amounts to

\$27,287,065 21

In addition to this, the Canal Commissioners' Report, Ass. Doc., 1843, No. 25, p. 137, states that there was due Jan. 1st, 1843, to Contractors, Engineers and for land damages then certified but not paid,

415,004 66

Making an ascertained debt of..... \$27,712,066 90

2. We are not unadvised that on a part of this debt, viz. \$1,720,000, the incorporated companies, to aid whose projects the stock was issued, still continue to pay the yearly interest, \$29,000.32; but it is also known that after the legislative wisdom had most solemnly declared the securities to be sufficient, and while their authors and abettors were contending that their loans were not a state debt, those of the companies to whom it had issued its credit to \$3,515,700, became hopelessly bankrupt, and left the state to pay the yearly interest of \$190,986.48; that the securities of two of those companies, the Catskill and Canajoharie, partly constructed, and the Ithaca and Owego, a finished work, were sold at auction at mere nominal prices; and that the sale of the third was suspended as a favor, which yet conceals the utter worthlessness of the security. But we see nothing in these circumstances to encourage a hope that these companies will ever pay any part of the principal advanced to them. In the relief asked, though not yet granted, to the most guilty of these bankrupt companies, we who are to pay our proportion for the fraud, can only see a promised impunity to follow its example.

At present, therefore—as the State is the only substantial party to these loans—we regard the above as the really ascertained debt of the state. To this should be added the land damages not yet appraised, and you have a public debt approximating to \$28,000,000—mostly the product of legislation in the six years beginning with 1836.

3. As all the state revenue is sacredly pledged for the debt ascertained at the last session, and is confessedly insufficient to meet it—no new loan to pay the unascertained land damages, or the \$415,004.66 reported as unpaid by the Canal Commissioners, can be authorized without imposing a new tax to pay both interest and principal, or causing such a palpable breach of the public faith as shall be destructive of all public credit. We know that it is not they who are thus forced to lay the tax, but they who asked and authorized the expenditure that makes it necessary, who are justly responsible for the misery it must inflict. But while our representatives are obliged to perform this cruel office for past folly and recklessness, we trust they will be disposed to restore to the people the power to save themselves from the recurrence of these evils, and all honest legislation from inflicting them to remedy the vices of others.

4. By the same Report of the Comptroller, p. 6, it appears that of the state debt there falls due

In 1843, ..... \$227,317 00

In 1844, ..... 235,379 07

In 1845, ..... 4,234,201 61

Carried forward, ..... \$4,696,907 68

Brought forward, ..... \$4,696,907 68  
Payable on demand ..... \$118,390 48  
Now due the sum above reported as unpaid by the Canal Commissioners, ..... 415,004 66  
Now due ..... \$533,293 14

Principal due before and in 1845, ..... \$5,230,302 52  
The funds provided in '36 to pay that part of the old debt of the Erie and Champlain Canals should now have been some \$2,000,000; but the state has consumed \$239,425.16; and some half million has been lost in bankrupt banks. If these losses are repaired, there will be, as stated by the Comptroller, p. 17, \$1,767,355.16; but deducting these losses, there remains only ..... \$1,127,960 00

Principal to be provided for in 1843, 4 & 5, ..... \$4,102,342 52  
By the same Report, p. 16, the gross annual expenditures of the state, including canals and interest on the debt, is ..... \$2,697,661 14  
The gross annual revenue from canals and other sources, is ..... 2,241,979 00

Leaving an annual deficit of ..... \$455,681 14  
a deficit nearly equal to the entire product of the mill tax. Including that tax the net revenue, over expenses, would be less than \$200,000 a year.

Is this an adequate provision, with the \$100,000 loan authorized by the law of last session, to make up the losses by bank failures, with any probable increase of canal tolls, to meet in three years \$4,102,312, the principal of the debt to be provided for in that brief period, hastening, as time flies, swiftly to a close?

5. Must you, like your immediate predecessors, add new taxes to our burthens to meet and obviate this alarming deficit? Restore, while you may, to the people, the power to prevent the recurrence of that profligacy in expenditure which makes the exercise of the taxing power a curse to bear, a curse to wield. Should war threaten, should pestilence assail us, should harvests fail, how dreadfully would past legislation, in its results, exemplify the wisdom in peace and abundance, of arranging the finances of a free people so as to be entirely easy and safe in time of war!

Such are the difficulties of finding the revenues and means to meet the demands of our local Government. But even if the ways and means were found, the collection of such vast sums, in so short a period, in the present condition of our markets and currency; and the remittance of them to foreign creditors or payment to unproductive classes at home, must cause the severest embarrassment.

By the same Report, p. 5, it appears that the annual interest of the state debt is ..... \$1,369,193 14  
Add the interest on \$415,004.66 arrearages, reported by the Canal Commissioners, at 7 pr. ct., ..... 29,050 32

And the annual interest of the state debt will be ..... \$1,398,243 46  
Take the above principal beyond means, ..... 4,102,342 52  
Add three years' interest at the above rate, ..... 4,194,730 38

Amount of revenue to be collected in these three years, of ..... \$8,297,072 26  
In the same time there must be collected of banks and the city of Albany, and on the deposit loan mortgages, ..... 1,127,960 00

Showing an aggregate to be collected in paper and paid in 1843, 4 & 5, of ..... \$9,424,706 20

The Comptroller gives a statement of the Stock debt at \$25,999,074.44; showing that \$14,038,540.15 is held in this State, \$1,126,758.20 in other States, and \$10,833,776.09 in foreign countries. And at page 11 says:

"The preceding statement shows that \$3,265,323.44 of the stock payable in 1840, is held by foreigners. Of the annual interest on the whole debt, more than half a million of dollars is paid to foreigners, being a million and a half for three years. This shows that we must provide and remit to foreigners between July, 1842, and July, 1845, the large sum of \$4,765,323.44. There is also more than a million of dollars payable within the same period to domestic creditors, with the interest on the amount."

In view of such facts, the question inevitably occurs, could legislation in the six years from 1836 inclusive, have done *more* or *worse* than it has done? and shall the people ask in vain for a constitutional barrier against the recurrence of such evils?

The people of this State, about one-sixth of the free population of the Union must, in the season of business, pay a full sixth of the federal taxes, which can hardly be less, and may largely exceed \$4,000,000; and must, for a considerable time, advance a much larger proportion of them in the same business season, from April until November. They must pay to the state, in the auction tax, the salt and other taxes, and the canal tolls, about \$2,250,000. In the winter season, when the markets are closed, and all business suspended, must be raised, as appears by the Comptroller's report, table H, in town and county, city, and the State mill taxes, \$4,246,487.78—an annual levy of about \$10,500,000 paid by our two millions and a half of people—a tax of about \$4.20 for each man, woman and child in the State!

The whole federal tax is, for a time, withdrawn from circulation—as is also a large part of the tax collected for the counties and state; and that part which is destined to pay interest to our creditors in other states and foreign countries, will never return. In whatever manner it may be collected, the whole is so much wrung by force of law from the hard earnings of productive labor, and applied for the support of the unproductive classes. By the policy of past legislation, all coins are virtually banished from circulation in the community, and these taxes are to be collected in bank paper—a circulation so variable, that after swelling to the utter rottenness of more than \$20,000,000, and the fraudulent bankruptcy of ten Safety Fröd and 26 Free Banks, having an aggregate Capital of \$4,197,559,—a loss to the bill holders of \$636,257, and to the State of about \$700,000,—has, in the collapse, sunk down to a circulation of \$7,142,834. Of the banks in operation, the state has borrowed and converted into fixed and unproductive works, \$4,843,316, and has so far reduced their power to make

loans of their capital to the community, on which the State is obliged, at the same time, to press with an increase of levies and for the collection of the trust funds consecrated to the purposes of Education. We know of no defence or excuse for that legislation which could produce the results here evolved. We speak of acts, their natural and inevitable tendency, and the actual results, and will not descend to the disputable ground of motives, where hypocrisy may assert some claims to virtue; because, if these are the results of mistaken virtue, what are we to expect if future legislation should, to any extent, become corrupt, cunning and selfish? Whether of wisdom or folly, or virtue or vice, we desire a certain assurance that these results cannot be again inflicted on us.

We admit that the "rights of property" is a fabled figure of speech for the rights of labor: the power of labor, and the intelligence that directs it, are the gifts of Heaven, sacred and inalienable; and no government can take its products without showing a right as clear and sacred as that of the producer. And in this country it is history, that the invasion of this right has its remedy, not in petition and remonstrance only, but in revolution. We feel that legislation had no warrant to impose on us these debts; and this is confirmed by the fact, that those who authorized more than \$10,000,000, made no provision for payment whatever, but pledged our faith as if conscious they had no power to tax for such a cause. But the tax-gatherer is abroad, and must, for a long series of years, return and meet us in all the business walks of life. If the power to prevent the repetition of legislative injustice and injury be denied us—if our representatives will cling to the power which some of their predecessors have abused in a manner so grossly destructive of all the sacred rights of labor, shall we be accused of causeless jealousy if we entertain a fear that the power is denied by those who design to re-enact the past in the future? to forge new manacles for the free? And if it is not designed to be again abused, why not surrender it wholly to the constituent body, or give to them such control of it that it can be used only by their consent, given directly by their ballot?

If the amount of the State Debt, including unappraised damages, is in round numbers about \$28,000,000—the yearly interest, in round numbers, about \$1,400,000, the millions becoming due without means on hand to meet the payment, the taxes already imposed, the bank failures and frauds already experienced, the variable and at times worthless character of the currency they afford, do not sufficiently prove the impracticability of living under the unrestricted legislation of which we complain, the most ample proof is furnished in what seems now, from mistaken prudence, too generally concealed. If we estimate the cost of the New-York and Erie Rail Road at the actual cost of the road over a like route,

and for a like purpose, from Albany to Boston, and to complete the works in progress—including the Catskill and Canajoharie—they cannot add less than \$20,000,000, and probably not less than \$25,000,000, to our debt. Of the works surveyed, including the canal around Niagara Falls, and giving to the Champlain, the enlargement recommended for the Oswego, Cayuga and Seneca canals, the mere estimates, selecting the most moderate, will exceed \$25,000,000 more to be added to that debt. These deferred works will, in point of necessity and usefulness, compare with those in progress, and are mainly designed for districts less favored, and on which fewer millions have been lavished. They constitute an essential part of the system which, as actual cost, usually doubles the estimate, can scarcely add to the debt less than \$50,000,000 to complete it. The works in progress and the deferred works would push the debt to \$75,000,000, and probably to more than \$100,000,000, with an annual interest of \$4,500,000 or \$6,000,000. The probable costs of the works in progress, the estimates for the deferred works, the excess of actual cost over estimates, the suspension of the Banks in 1837; the difficulty of resumption, and their suspended condition in other States; the fact that all that had been paid or provided towards the principal of the Erie and Champlain old debt, and more had been provided in principal, and the interest saved by it from the duties on *Salt, Auctions, Steamboats, and from Land Sales*, and not from canal tolls; and from the further fact that towards each of the lateral canals the State had been obliged to pay beyond the tolls, the whole interest of the Debt, and part of the repairs, were fully shown and distinctly proved in the documents brought out under the auspices of that legislation of which we complain. The truth of these statements will be established by referring to the tables marked G and H, appended to the annual reports of the Commissioners of the Canal Fund. Though rarely, if ever published in the newspapers, they were in the hands of the legislators; and the results, requiring no greater skill to reach them than the ordinary capacity to calculate interest, must have been familiar to all. They were several times substantially asserted by the Comptroller in his reports and in other documents, and never denied, though censured; and never can be denied by any man who will make an estimate of the tables referred to.

We therefore respectfully ask that the Le-

gisature propose so to amend the Constitution—

1st. That the Legislature shall not, in any manner, create a debt which shall exceed one million of dollars, except in cases of foreign invasion or domestic insurrection.

2d. The Legislature shall not, in any manner create a debt which shall, at any time, exceed one million of dollars, with the exception above stated, unless the same shall be enacted by a law for some single work or object to be distinctly specified therein, and shall contain distinctly all the taxation, direct or indirect, which shall ever be employed to raise money for the payment thereof, and shall, at a general election, have received the sanction of a majority of all the voters of the State voting for any officer at such election, to be given by the ballot; and on the final passage of every such bill, in either house of the Legislature, the question shall be taken by ayes and nays, duly entered on the Journal, and shall be, "*Shall this bill pass, and ought the same to receive the sanction of the People?*" And the moneys arising from any loans or stocks creating such debt, shall be applied to the work specified in the act authorizing the debt, or for the payment of such debt, and to no other purposes whatever.

And if the Legislature shall decline to propose such Amendment of the Constitution, then we ask that a CONVENTION OF THE PEOPLE OF THIS STATE be, by law, called to revise and amend the Constitution.

All of which is respectfully submitted.

Michael Hoffman,	W. L. Barton,
Wm. C. Crain,	Charles P. Daniels,
Arphaxed Loomis,	W. Forrest,
Isaac G. Merriman,	A. M. Gray,
Sanford Rankin,	C. H. Spinner,
W. I. Skinner,	Wm. J. Murray,
John D. Lamberson,	Charles Kathern,
Chauncey Peck,	Henry Ellison,
Jacob Ellison,	F. E. Spinner,
Alfred Putman,	Augustus Beardslee,
F. Lansing,	John G. Getman,
Joseph Eysaman,	Joseph Ritter,
H. W. Wilcox,	Chauncey Getman,
E. A. Middlebrook,	John Golden,
C. S. Benton,	Jacob J. Davis,
L. Bellinger,	John D. Clapsaddle,
Wm. F. Hendrix,	Peter H. Warren,
Parley Arnold,	H. G. Root,
L. F. Hawks,	J. W. Warner,
A. West,	E. W. Day.

WILLIAM JACKSON, Ch'n.

L. CARRYL, Sec'y.



## THE REFORM MOVEMENT DEFENDED BY THE DEMOCRATIC REVIEW.

The Democratic Review comes nobly to the rescue! Eminent alike for educated talent and political integrity, that Review always commands respect, even when it does not fully produce conviction. Among adversaries as among friends, it holds conceded prominence among the most distinguished politico-literary Journals of this or any other country.

The ability and independence of the Democratic Review are equally signalized in the article with which it vindicates the movement for Constitutional Reform in the State of New-York. The "demagoguism" charged upon the advocates of the proposed reformation, probably stimulated rather than retarded the Reviewer in rendering justice to the motives of the Reformers as well as to the righteousness of their cause.

Earnestly, right earnestly, do we commend the article of the Democratic Review on Constitutional Reform, to the attention of all who wish to act understandingly on that great question. Among the many important arguments already published in the shape of speeches, letters and essays, we have met with nothing worthier of attention than the argument from the Review. It is an admirable counterpart to some of the speeches and letters of Hoffman, Morris, Sedgwick, Hurlbut and others, mentioned in the several numbers of the "Democratic Reformer." But we will not longer detain the reader, anxious for the article—

[From the Democratic Review for December.]

### CONSTITUTIONAL REFORM.

It will be twenty-one years on the first day of the approaching New Year, since the present Constitution of the State of New-York went into full operation, and became the fundamental law of the State. It was devised by a Convention, called for the purpose, as a substitute for the Constitution of 1777, and to embody the political science of the people for whom it was designed. A single generation of men has scarcely passed away, and already the necessity of numerous and comprehensive alterations is being seriously agitated. Several of the most influential presses in the State, irrespective of party connections, have opened their columns to its discussion—writers, both profound and eloquent, have engaged with devotion in its advocacy—and the cause has already taken formidable shape and energy from associations constituted solely with a view to favor its agitation, and to ensure its success.

Although the matter has so recently come into public discussion, yet we believe it has been almost universally conceded that several important alterations in, and additions to, the present Constitution of this State, are indispensable. Public opinion, however, is divided both upon the extent to which these changes should be carried, and the means by which they should be effected. While the amendments contemplated by one class are, in their opi-

nion, so various and so comprehensive as to merit the undivided consideration of a special Convention; another class maintain that the State Legislature is fully competent, in the ordinary exercise of its constitutional powers, to shape and initiate all the alterations that may be required. This diversity of opinion gives rise to two important inquiries:

*First*—What is the formula of progression according to which Constitutions are to be perfected? And *secondly*—What are the safest and most effective means of practically favoring this progression?

The comprehensiveness of these inquiries, and the breadth of interests which they cover, will make it sufficiently apparent, that in opening our pages to their discussion, we are not departing from that policy to which we have hitherto uniformly adhered, of entertaining no articles of a political nature which concern merely local and temporary interests.

The modern science of government recognizes two orders of legislation—the one organic or constitutional, and the other statutory. It is the function of the former to establish and to define the powers of the Government. It states the rights which the people have agreed to delegate to their political agents—the Executive, the Legislature, and the Judiciary—and, by implication, those which they retain. It is the function of the latter order to vary and adapt the powers thus conferred by the former, according to the exigencies of the people.

The Constitution is intended to operate both as a guarantee against encroachment by the Legislature upon the rights of the people, and against the political caprices of the people themselves: and hence the amendment of the Constitution is defended by special solemnities against the fluctuations of public opinion. In the statutes, on the other hand, the Legislature have recorded the details of their attempts to ameliorate and improve the condition of their constituency in those matters over which the Constitution has conceded to them discretionary powers. In fine, the Constitution records the political science of a nation—the Laws its political experience.

In a political system like ours, based upon man's capacity for self-government, and which, in theory at least, respects the will of every important interest in the State, the question naturally arises, Why impose delay or restrictions of any kind upon the popular will? why place any portion of the law above the immediate reach of the sovereign arm? why not give the people their way at once? In other words, why distinguish between the Statutes and the Constitution?

The reasons are important, and for their bearing upon our subsequent remarks, require to be glanced at.

In every social body, however advanced it may be in civilization, will be found a greater or less number of aggregated interests. There is the agricultural and the manufacturing interest, the commercial interest, and the banking interest; public patronage of every kind to be dispensed, and private necessities of every degree to be relieved. Each one of these separate interests is perpetually disposed to ask for legislation that is inconsistent with the general interest. It not unfrequently happens that, from some unforeseen calamity, or from

the operation of pecuniary or other disturbing forces in favor of some of these limited interests, public opinion is turned entirely from its proper orbit, and disastrous confusion wrought in the policy of the government before time enough shall have elapsed for the public mind to recover from its delusion. Such disturbances can never occur without seriously harming a very large portion of the community, who, in turn, taking advantage of the sympathy which is immediately awakened in their behalf, endeavor to indemnify themselves by a like recourse to legislative interference. In a short time the proper functions of government are entirely abandoned in an ineffectual attempt to adjust the pressure of special laws equally upon each individual man. The corruptions to which this gives rise, and the inevitable oppressions by the majority which follow, drive all classes to unite in asking for a stronger government, which has but a single interest or class of interests to satisfy; and which, when these are satisfied, may be disposed to consult the general welfare without other prejudice or partiality. This, in brief, describes the tendency of every government, which is subject to the uncontrolled will of partial or sectional interests, to gravitate towards a despotism. Sensible of this, mankind have devised various checks upon the caprices of the legislative power. In some countries this is aimed at in a priesthood, or by dividing society horizontally into castes, and sanctioning and ensuring the separation by a cunningly devised superstition; in others, by recognizing the Divine Right of Kings; in others, by entailing the supreme power upon a single family or class; and finally, in others, by written constitutions or charters. Of these, the constitutional check is the only one which the people voluntarily assume, and is the only one known that is based upon a liberal representation of the popular will. It is likewise the one which admits of the largest liberty to the individual man. Hence we can readily understand why, until the introduction of constitutional governments into modern Europe, the human race made so little progress in the science of government. They had no sufficient constitutional guarantees against the vacillating legislation. When the public mind had digested and adopted a line of policy which was clearly calculated to promote the true ends of government—the happiness of the subject—there was no process of embalming it, no provision made for securing it against the decomposing influences of corruption and tyranny. The rights which were conceded to one generation by its rulers, might be abrogated by their successors: a Titus might be succeeded by a Domitian; “the delight of the human race” by its scourge.

Hence it is that the whole political history of the human race, down to the establishment of constitutional governments, has been but a succession of revolutions. Each nation has advanced from the barbaric domination of a chief, through the successive stages of popular enfranchisement, until one class after another became powerful. Opposing interests in society were multiplied and brought into collision; then followed the corruption and oppression incident to all special legislation, and, finally, came the despot or the conqueror, who was, perhaps, to unite the people with him if he were just, and certainly against him or his successors if he or they were oppressive, and lay the foundations of new revolutions to be endured, and new battles of opinion to be fought over. Such, from generation to generation, has been the treadmill toil to which the human race has been subject, and how trifling was the progress! They endured enough to make them wise, but had no means of accumulating their wisdom and of bequeathing it to posterity. Notwithstanding all the political experience of their ancestors, each generation was thrown back, like the beasts, upon their instincts, and compelled to learn the science of government

anew; to roll on the same stone up the same unfortifying—ghill, to revolve from one generation to another, in the same brazen fetters, upon the same fiery wheel.

It is scarcely too much to say, that it has only been since the erection of constitutional guarantees against the encroachments of the legislative power, that mankind have made a uniform and perceptible progress in the science of government. They are the cogs which the people have fixed upon the machinery of legislation, to prevent its return to the often-rejected absurdities of the past. They at once embody the political science of the people, and defy the people's caprices.

While, however, it is the function of the constitution to embody the great results of national experience and to prevent a relapse of public opinion to those errors which it has surveyed; while it defies every art and all the strength of short-sighted and factious legislation to disarm or displace it; the impression should not for a moment be indulged that it is an unchangeable and unimprovable existence, that it knows neither increment nor modification; that, like Terminus, the god of metes and bounds, in the Roman Mythology, it is without arms or legs, because it is destined neither to advance nor recede from its first location. The science of human government has never realized, in any one department, its highest destiny. By how much it comes short of that, by so much, constitutions, its practical exponents, are immature and susceptible of improvement. But the law of progress to which legislative science advances, differs materially, we conceive, from that which controls the progress of any other; and it is through a desire to define this law that we are forced to this somewhat circuitous route of argumentation.

Of the physical sciences, most are experimental, and the philosopher may establish, modify or explode an hypothesis by an experiment. While the infinitely-varied phenomena of nature are hourly provoking his curiosity from every side, they are all taught to submit themselves to the scrutinizing test of the laboratory, the forge and the machine-shop. There they may be racked and tortured by the great inquisitor of nature until they shall disclose, one after another, the very laws of their existence, and all their properties, both of being and of action. Those of the physical sciences which are not experimental are mostly demonstrative. They may be certified by mathematical calculation, and each result may be made the basis of some new inquiry. In both these cases, however, the science is effectually secured from recession, and, at the same time, every man is himself possessed of the means of enlarging, to some extent, its territorial limits.

Political science, on the other hand, though inductive, is not strictly an experimental science; though based almost entirely upon experience, it can neither be advanced nor established by experimentation proper.\* Still, in a certain sense, political science is experimental. Through the imperfection of the human judgment, we are sometimes compelled to risk measures of which we cannot foresee the consequences. Though we incur the risk by the persuasion of experience, yet all of the measure that is doubtful is in some sense experimental. It will readily be perceived that experiments conducted under such oppressive disad-

\* Experience may be acquired in two ways; either, first, by noticing facts as they occur, without any attempt to influence the frequency of their occurrence, or to vary the circumstances under which they occur; this is OBSERVATION; or, secondly, by putting in action causes and agents over which we have control, and purposely varying their combinations and noticing what effects take place; this is EXPERIMENT.—Herschell's *Preliminary Discourse on the Study of Natural Philosophy*, p. 76.

vantages can never be resorted to by the political economist with the single view of advancing political science. It is this kind of experimentation, however, that is carried on through the organism of our annual legislatures. From it is derived all our new experience. A system of policy is there armed with the power and the penalties of law, and put into operation, subject to being abandoned or pursued, as it shall prove successful or otherwise. If experience shall sustain it, a new principle of legislation is established, and the Constitution is ready to receive and perpetuate it. The legislature thus becomes the laboratory in which the separate wants of a community are combined and elaborated into political science. The statute book records the details of the experiment, and the Constitution its results—from which we conclude—

*First*, that what each nation has done and endured—the sum of its experience is the measure of its wisdom, other things being equal; and

*Secondly*, this experience will increase just in proportion to the completeness with which each interest in society is represented in the legislative councils, other things being equal. For most political truths are merely proximate, not final truths. A system of policy which to-day may be expedient, may become altogether inexpedient at some future time; and assuming as we do, that the end of government is the greatest happiness of all its subjects, that law which responds to the wishes of the greatest number, is, for the time being, best. From the variety of interests represented, the legislative scrutiny will, in turn, be directed to a greater number of subjects than would be the case in a more limited representation; and though the tendency would be, as we have no doubt, to circumscribe the sphere of legislation, it would tend none the less to give the science symmetry and perfection.

It follows of course, in the third place, that there will be the most completeness of representation where the greatest equality of condition among the whole people prevails; where there is the greatest unity of interest. For where a great diversity of condition exists, where the comforts of life and the means of happiness are very unequally distributed, the wealth and intelligence of the superior class will both enable and dispose them to take advantage of the ignorance and necessities of the inferior class, and to disfranchise them actually or by indirection. If this be not the case, there will still exist such an antagonism of interest, that the wishes of one or the other class must, to a certain extent, be sacrificed. But no law is destined to be permanent which does not substantially subserve the proper interests of all whom it controls. Those whom it impinges, will ever be its enemies unless a change of circumstances occurs to remove or diminish its oppressiveness. Though the disaffected may be compelled to submit to it while they are weak, yet they will resist it when they become strong. It will, therefore, take much longer to settle a principle of legislation, and of course less progress will be made in constitutional science under such circumstances, than where a greater identity of interests prevails throughout the whole community.

From all which we conclude, that other things being equal, where there is greater equality of social condition, there will the wishes of all be most adequately represented in the laws.

That where this representation is most adequate, there will valuable political experience most rapidly accumulate; and,

That where this accumulation is most rapid, there political science will be most progressive. And there, of course, the Constitution, which is the proper repertory of the political science of a people, will most frequently require review and amendment.

If we have been at all successful in making our

statements as clear as our convictions upon these points, we feel that our readers will be prepared further to infer with us, that in a government based upon a liberal system of representation, the Constitution will require periodical inspection, and comparatively frequent repairs. In no other way can the people fully avail themselves of their advantages. To neglect it, is to expose themselves or their progeny again to all the consequences of their former inexperience. While a great political error, with its disastrous results, is yet fresh in the memory of all, they are both wise enough and willing to guard against its recurrence. If that be neglected until the event, or its more painful features are obliterated from the public mind, an opportunity may never recur again to repair the omission, except it come accompanied with all that brood of public calamities which spread terror and confusion at its first appearance. Impressed with the correctness of these views, we have always felt that when Mr. Jefferson proposed that every American Constitution should be subjected to a periodical revision, once in every twenty years, he had a very correct and philosophical idea of the longevity of all political admonitions, as well as a just sense of the progress of political science among a free people.\* While, on the one hand, time enough will have elapsed to obscure the remembrance of what may be irritating in the measures which have transpired, all their important lessons may remain comparatively uneffaced and distinct. A portion of those in that generation who were blind to the instructions of their experience will have passed away—a new generation will take their place without any deep and unrelenting prejudices to be overcome, but ready to listen to, to ponder, and to appropriate the wisdom which was bequeathed them in the experience of their predecessors.

Again, it must have been observed by those who are at all familiar with the progress of legislation in this country, that in the course of every twenty years, numerous and important principles of policy have been fully settled in the public mind—principles which, if not at war with the Constitution, were, at least, imperfectly defined by its terms.† Nay, there may be many questions of political doctrine concerning which the nation may require more than the life-time of a single generation to agitate and discuss; yet, as these difficulties originate at different intervals, so will they be ready for final legislation at different times. The harvest time will relate to the seed time, and that only need be gathered which is ripe for the sickle.

\* "Each generation is as independent of the one preceding as that was of all that had gone before. It has, then, like them, a right to choose for itself the form of government it believes the most productive of its own happiness—consequently to accommodate to the circumstances in which it finds itself that received from its predecessors; and it is for the peace and good of mankind that a solemn opportunity of doing this every nineteen or twenty years should be provided by the Constitution, so that it may be handed on, with periodical repairs, from generation to generation, to the end of time, if anything human can so long endure."—*Jefferson's Letter to Kirchcubal in 1816.*

† In the State of New-York, where, by means of its journals, the public mind finds more immediate expression in the laws than perhaps in any other part of the world of equal extent, we believe this statement to be particularly true. Indeed, the newspaper has become to all intents and purposes, a co-ordinate branch of the Legislature, and oftentimes a question of policy is discussed and its fate is settled before it has received any serious legislative action. This wonderful facility in extracting and circulating public opinion, has abridged the period usually requisite for establishing a system, of policy upon all political subjects, and permits a degree of promptitude and activity in legislation which appears to the old world almost revolutionary, and which is quite unprecedented in the history of nations.

If the period for revision come too soon for some questions, they may lie over for the next, while the principles which have matured may be disposed of without delay.

To be convinced of this, one need but review the history of banking in this State for the last half century. The first applications for bank charters were made under the Constitution of 1777. Through the imperfections of that instrument—imperfections which sprang entirely from the inexperience of those who drew it, and of those by whom it was adopted—opportunities for such gross and flagrant corruption were afforded, that on three different occasions a majority in the Legislature was controlled by direct and unequivocal bribery. To propitiate the outraged feelings of the public, as well as to prevent the recurrence of such scandals in our legislation, the Convention who revised the Constitution in 1821, gave the subject a careful examination. The result was the introduction of a clause requiring the assent of two-thirds of both Houses to create a moneyed corporation. Though this provision may have prevented much impure legislation, yet the remedial principle had only been approached, not reached. The delegates to that Convention had not then the experience in the operation of special legislation which the last twenty years have furnished. They little dreamed that in less than three years from the time their deliberations terminated, fifty thousand dollars would be disbursed among the members of the New-York Legislature in purchasing a single banking privilege,\* and that it would become a notorious fact, that in nearly every banking institution to be established by that body for the next twenty years, a large number of its members would have a deep pecuniary interest—that they would be the first, in one way or another, to participate in the profits of those very institutions which they, by their own votes, were to aid in creating. Yet that very amendment, which, in 1821, was thought to be sufficient, but which has proved to be vain, might, had it not been tried, be thought the only remedy which the present exigencies of the State required. By a timely interposition however, then, we are now fully prepared to lay the axe at the root of the evil, and disencumber the State of its noxious influence for ever. The progress of public sentiment, likewise, in reforming the doctrine of eminent domain, and in limiting the power of the Legislature to contract State debts, has been even more rapid than upon the subject of banking. It has been almost entirely formed within twenty years.

We are, therefore, of opinion that in governments where all classes are so fully represented as in the United States of America; where public opinion is so rapid in its formation and circulation, and so controlling in its authority, the Constitution should be subjected to a thorough revision once, at least, in the life-time of every generation, and such repairs be made as are clearly and steadfastly demanded by a manifest majority of the voting population for whom it is designed.

We have been thus far attempting to show *a priori* the necessity of subjecting the organic law of a people to a periodical revision. We now propose to show *a posteriori* that a pressing necessity exists for numerous and important amendments to the present Constitution of the State of New-York. We shall confine ourselves for the present to a brief statement of what we conceive the chief defects of that instrument to be, both because their discussion would, of itself, require more additional space than we can appropriate to the treatment of any single topic, and because they have elsewhere been presented with great perspicuity and completeness.†

\* Chemical Bank of New-York City.

† A periodical has been recently established in the city of Albany, entitled the "Albany Democratic Reformer."

To the present Constitution we object then,

First, that the highest Court of Appeal in the State unites in itself both the powers of making and of administering the laws. This union cannot exist without exposing the members composing the Court, in some cases, to the undue influence of political prejudices and partisan interests, which leads to a corrupt administration of the law—and in many more cases to a suspicion of such influence, which seriously impairs the usefulness of the Court, by weakening the moral weight and authority of its decisions. Being likewise, the exclusive judges of the constitutionality of the laws which they have themselves been instrumental in passing, they not only enter upon such inquiries as a Court with opinions fully formed and publicly expressed, but they have, through the medium of their judicial organization, the power of passing laws in direct violation of the Constitution. The proof of the existence of this power and an instance of its exercise, may be found in the passage of the General Banking Law in 1838, which being intended to create moneyed corporations, required a two-thirds vote of the legislature. A majority, however, passed it. When the constitutionality of the bill came before the Court of Errors, a mere majority was sufficient, and it was found, to sustain the law. In like manner a factious majority might conspire to pass any other bill which required a two-thirds vote, and establish its constitutionality in the Court of Errors by the same majority which had first carried it through the Senate, and thus violate, in the grossest manner, not only the spirit but the letter of the Constitution. To these considerations it may be added, that the members of the Senate are elected rather to make laws than to administer them, to press the measures of a party rather than to compose the differences between individuals, to exhibit skill and devotion as advocates, rather than wisdom and impartiality as judges. The necessity of making this distinction arises from the union of such diverse functions in the same officer. The people cannot often find an active politician and a good judge in the same person; and as they are not permitted to select one man for their judge and another for their Senator, each according to his special qualifications for the office to which he is elected, they are compelled to elect between their necessities, and in seeking for a good Senator, to run the risk of getting a bad judge, and *vice versa*.

Second, we object that the period for which most of the members of the Court of Errors are elected, is too short to admit of that stability and comprehensiveness in their decisions which the dignity and influence of the Court demand—and is also too short to command that degree of talent and fidelity which are requisite for a proper discharge of its duties. The first point is familiar to every person conversant with the decisions of this Court, and the second is sufficiently proved by the reluctance of men distinguished for ability, to be elected to this highest judicial tribunal in the State, who would feel proud of a seat upon the bench of many inferior courts.

Thirdly, we object that the people are not pro-

poral," the purpose of which is to embody all such memorials, speeches and published papers as may from time to time appear upon the subject of Governmental Reform. In the first and only number which has yet appeared, are contained the speeches and letters of several of the most distinguished reformers in the State upon this subject. In the next number will appear a series of communications which appeared during the last summer in the columns of the New-York Evening Post, upon the same subject, from the pen of E. P. Hurlbut, Esq., of New-York city. The clearness and force with which the remedies to our present constitutional system are there presented, would be a sufficient excuse had we no other for our declining to enter upon their discussion.



perly secured against an improvident use of public money and public credit. That there is nothing in any of our State Constitutions to protect us from fraudulent insolvency or excessive taxation, but the contingent honesty and discretion of the Legislature. Not inexperienced we speak. The shameful condition of some of our sister States, and the headlong extravagance of New-York legislation, by which the citizens of that State have been suspended more than once over the very precipice of national insolvency, are sufficient warnings to all who are not besotted with prejudice, or false to their own convictions.

Fourthly, we object that the property of the State is not liable in a suit by its creditors for the debts which it contracts, whereby the creditor is deprived of an absolute right, and the people of a most important safeguard against improvident legislation. Aside from the clear and obvious right which the creditor has to this remedy against the State, it would be calculated, in a high degree, to fix the responsibility of improvident legislation where it belongs, upon the guilty instruments.—The people would have their attention awakened by the imprudence of their representatives in a comparatively short time after its perpetration.—They would thus, on the one hand, be led to visit these unfaithful servants with a just indignation; and, on the other, to be more cautious in granting similar powers for the future. By permitting the State to be made defendant at the suit of individual citizens, we should, at the same time, deliver the Legislature from some of its most trying temptations. Private claimants against the State would then betake themselves to the courts, instead of the lobbies, for redress.

Fifthly, we object that a man's rights over his own property, are not properly or even decently respected. That his land may be taken from him, and his houses torn down, to gratify an unprincipled lust of gain, without any pretence of public necessity. And that no fair system of compensation is provided to the ejected citizen, either when the property is taken by privileged corporations, or for the public use.

Sixthly, we object that the Constitution permits the creation of corporations with a larger credit, and with less liability for their engagements, than is permitted to individual citizens. Besides, the gross injustice which such privileges work to those who cannot participate in their enjoyment, their tendency has been, and is directly or indirectly, to make the currency of the State fluctuating, to derange the industry of the country, and to establish a large and powerful influence adverse to impartial legislation.

Seventhly, we object that it has seriously and unnecessarily diminished the legislative power of the counties and towns; that it has injudiciously deprived the people of their proper influence in the selection of their local officers, and has increased the patronage of the central government, and thus the capacity of its members for political corruption, to the serious obstruction of pure and equal legislation, and the calamitous depravation of public morals. Our government is based upon the doctrine, that every town knows its own wants and their remedies better than they are known by any other town. This doctrine assumed, it is absurd to give the selection of merely local town and county officers to the General Government—worse than absurd, it is corrupting to the appointing power, and concedes to an oligarchy a dangerous control over the electoral votes, and thus over the legislation of the State.

Eighthly, we object that it has made no adequate provision for the prompt and righteous administration of the law, in consequence of which, the citizen is often subjected to unjustifiable delay and expense in establishing his legal rights. The average duration of a litigated suit is not less than five

years in our Court of Chancery, and three years in our Courts of Law. The average expenses are from 15 to 20 per cent. upon the whole sums recovered.

Ninthly, we object that it permits an unlimited creation of offices by the government, whereby the patronage of the executive may be dangerously increased, without the consent of the people. In consequence of this, vast numbers are tempted to abandon both their professions and their principles for the desperate chances of political life, and the people are subjected to useless expense for services not only needless, but frequently prejudicial to the public welfare.

Tenthly, we object that the clergy are, by the Constitution, ineligible to, and incapable of holding "any civil or military office or place within this State," and are thus denied a full, practical enjoyment of the privileges of citizenship. This, we believe, is the only clause in the present Constitution, which is unconditionally discreditable to the statesmanship of every man who advocated it. If anything could add to the absurdity of the act, it would be the reasons they gave for doing it. "Whereas, the ministers of the gospel are, by their profession, dedicated to the service of God and the cure of souls, and ought not to be diverted from the duties of their functions; therefore, no minister of the gospel, or priest of any denomination whatever, shall, at any time hereafter, under any pretence or description whatever, be eligible to, or capable of holding any civil or military office or place within this State." In the first place, the conclusion is, in itself, a wretched *non-sequitur*; and, in the next place, when it is as well remembered as it was once understood, that this provision against the political elevation of the clergy was introduced solely to protect our institutions from the principles of that body, which were generally conceived to be fatally adverse to the existence of civil and religious liberty, every one will, at once, perceive that we have branded the whole body with a mark of public distrust, which, whether deserved or not, is no more necessary, under our liberal suffrage system, than it is to compel the people to border their garments with fringe, as the Jews were commanded by Moses, that they may become more mindful of, and obedient to the laws that exist.

We will admit, if necessary, that, at first, the clergy would make unpracticable and, we believe, unpopular statesmen; but, we have not the remotest idea that it would be possible for their whole united order to turn the Legislature of the State, in any perceptible degree, from its appointed orbit. Whether they would choose to avail themselves of the privilege of holding office, would depend upon two questions; first, whether it were calculated, as the Convention suggested, to divert them from the duties of their sacred functions; and, secondly, whether, if it were, they were conscientious enough to refuse it. If they were not, it is hardly worth while for the State to oppose obstacles to their leaving a profession which they can't but disgrace. If they were, it is idle to impose prohibitions upon them. If, on the other hand the duties of the two functions were not found to be inconsistent, it is a gross injustice to the clergy to deprive them of their just influence in the making and administering of those laws which they are forced to submit to. It is not that we look for any special accession of wisdom to the councils of the State, or fidelity in the administration of her affairs, by removing these restrictions from the clerical profession; but we are not willing that our Constitution, the sanctuary of our political faith, should any longer give refuge to a principle of legislation so intolerent and so mean.

With most of our readers, to state these objections is to argue them. They are as familiar as household words to every enlightened democrat,

and to remove them, we hope will be the fervent aspiration of every pure one. We forbear going into a discussion of the remedies which we propose to these evils, as it has been and is our purpose now, merely to show a clear necessity for a substantial and comprehensive constitutional reform, and by what agency that reform can be most advantageously effected. The latter question remains to be considered.

The most devoted advocates of constitutional reform insist that a convention of delegates, elected by the whole people, would be the only body fit to undertake this vast and responsible work. That none but men specially called for the purpose, men uniting the most enlarged faculties of statesmanship with the most impregnable integrity, are sufficient for its "high argument." There is, on the other hand, another class, among which are many devoted friends of the Constitution and of civil liberty, who fear to trust a convention with such powers as are contemplated by the other section of reformers; who fear that an appetite for change may grow among them by what it feeds on, that, instead of confining their attention to necessary reforms, they may engage in a system of speculative or experimental legislation, and gamble with the public confidence for the chances that improvements may result. The class entertaining these apprehensions, prefer that the reforms should be initiated by the Legislature and ratified in the way provided by the Constitution.\* In support of this view, among other things, it is alleged that, when the Revisers of the Constitution in 1821, provided a process for amending that instrument, without a Convention, they intended to supersede that agency for the future. For this inference we entertain no respect whatever. It cannot be pretended that the Convention of 1821 divested the people of the right of amending the Constitution again by another Convention; but it is assumed that, having provided one organism for change, they meant to discourage every other. This is both bad statesmanship and bad logic. We could never see the slightest reason for so broad an inference, though we can discover abundant reason for the clause of the Constitution in question. Under the old Constitution of 1777, no amendment could be made without a Convention; and when a matter of mere machinery in the instrument required attention, a matter about the necessity of which little or no difference of opinion was entertained, perhaps a matter which could have been quietly passed through the legislature without a discussion and ratified by the people without a caucus,—in these mere technics of legislation, the people were subjected to the expense and delay of a Convention before that alteration could be effected. This was the case in 1801, when it was required to fix the ratio of representation of the State of New-York in the Legislature, and to interpret an ambiguous passage in the old Constitution. The expense and embarrassment which those trifling alterations involved, were the substantial, if not the sole reasons for the introduction of the provis-

ion in question into the new Constitution; and the propriety of its introduction we readily concede—but we deny that there is any authority for believing that the Convention of 1821 intended, by indirection or otherwise, to place the Constitution of the State under the control of the legislative power, or to supersede all revision by Conventions for the future.

There remains, then, this single question. Which is the better qualified to digest, without delay, a thorough and comprehensive system of Constitutional reform—the Legislature, or a Convention to be specially called for the purpose?

We may as well, at once, avow our preference for the Convention—nay, we are prepared to go farther, and to say, that while the present standard of legislative qualification obtains, we would prefer that the Constitution should continue as it is, rather than that the Legislature should attempt to amend it. And these are our reasons:

In the first place, the Legislature is not elected to revise the Constitution, but for other and very different purposes. The delegates to that body are expected to direct their attention to the current legislative business of the year. Those who are selected may be fully competent to represent the wishes of the majority upon the questions to which this business gives rise, while their doctrines of constitutional legislation might be altogether objectionable to their constituency. If there be a prospect of difficulty with a neighboring country, as the McLeod case, or with a sister State, as in the Virginia claim—or if a change in the system of public instruction be contemplated, the delegates who would be employed for these exigencies are by no means necessarily equal to the task of constitutional reform. Eminent capacity for the duties of the former in nowise implies equal capacity for the latter. The most capable for one emergency might prove wholly unfit for the other. Consequently it happens that where the people would attempt a change in the Constitution without the agency of a Convention, they are obliged, at the election of their representatives, to decide two issues, about which they may entertain the most opposite opinions, by one and the same vote. They are compelled, in one case or the other, to sacrifice their judgment to their necessities, because they are not able to express their opinions separately upon each. The same incongruity of functions which we deplore in the organization of the upper house of the legislature, by which legislative and judicial powers are combined in the same body, is apparent here. We can understand why in a remote and thinly-populated settlement, the very distinct duties of schoolmaster and dentist should devolve upon the same individual. Wealth and civilization have not labored together long enough there to effect a division of the professions. But no one pretends that we have not far more accomplished statesmen in the country than the majority of those we employ in making our laws; no one will pretend that to revise a Constitution does not require the best services of the ablest and best of men; no one will pretend that we cannot afford to pay for those services far better than we can afford to do without them. Why, then, we ask, shall we not avail ourselves of the wisdom of our wise men? Why not give the public sentiment its full and fair expression, without driving the people to choose between their rights, and to compromise with their necessities.

But, in the second place, suppose the legislature to represent the public sentiment fully upon all the fundamental questions of government, we again object that they have not time or opportunity to project and mature a comprehensive plan of reform. Every one, who is at all acquainted with the labors of a faithful legislator, knows that during session he is ever pressed with the current business of the houses. A large portion of his time

\* Sec. 1st. "Any amendment or amendments to this Constitution, may be prepared in the Senate or Assembly, and if the same shall be agreed to by a majority of the members elected to each of the two houses, such proposed amendment or amendments, shall be entered on their Journals, with the yeas and nays taken thereon, and referred to the Legislature then next to be chosen, and shall be published for three months previous to the time of making such choice; and, if in the Legislature next chosen as aforesaid, such proposed amendment or amendments shall be agreed to by two-thirds of all the members elected to each house, then it shall be the duty of the Legislature to submit such proposed amendment or amendments to the people, in such manner, and at such a time, as the Legislature shall prescribe; and if the people shall approve and ratify such amendment or amendments, by a majority of the electors qualified to vote for members of the Legislature, voting thereon, such amendment or amendments shall become part of the Constitution."—*Const. of N. Y.*

is taken up in committees. He is inexperienced and uninformed upon some or all the subjects under deliberation, and requires time to prepare himself, to study, to reflect, to consult. The limited duration of his office, and his small compensation for that period, discourage him from devoting the vacations of his terms to that preparation. The consequence has been, almost invariably, that a large majority of all the bills, of every session, have been passed during its last week, many of which were not half discussed, and not more than half understood. Is it contended that much time is occupied by the two houses in political trifling? But would they trifle less with five or six bills for a reform of the Constitution waiting a third reading? Would it become a whit the less necessary for Mr. A. to detain the action of the house while he talks for a given number of days in every session at his constituency upon the few and altogether immaterial topics, concerning which he happens to have some information? Would it become a whit the less necessary for Mr. B. to recite all the calamities, real or imagined, which have originated since the creation of the world from the policy pursued by his political opponents? Would it become a whit the less necessary for Mr. C. to pursue his dispute, *de rebus nihil*, with Dr. D, until, in striving for the last word, he puts off the dignity of a legislator to cover himself with the ignominy of a blackguard? Would that it might! The friend of civil liberty might then be spared the mortification of defending the system of popular governments against the scandals of legislation, which so frequently make its operation disgusting. Would that it might! and it would be given him to see those institutions which he cherishes with such fidelity and hope, commending themselves to the whole world as an example to be admired, not as a warning, and to be despised. But such speculations are idle. The pendency of any constitutional question reconciles no political or personal differences, it satisfies no selfish appetites, it gives to legislators no enlarged views, it takes from them no selfish propensities. They will devote just as much time to their own ends, and just as little to the public good, as they please. As usual, they will work for individuals during the session, and for the public the day before adjournment. The consequence is that they will not touch any constitutional subjects at all, or if they do, they will huddle it through at the heel of the session, without deliberation or debate. Many may vote against it for the want of time to consider its merits, and many in favor of it for the same reason. It may thus be rejected and pronounced an unpopular measure, or adopted, and fix a serious and permanent deformity upon the Constitution; a risk, in either case, of the most serious character. Therefore, we insist upon it, that the Legislature have not time, though it were their business, to initiate all those constitutional reforms which the progress of political science in this State demands; and, as we shall proceed to show, in the third place, that they are incompetent, both by qualification and position, for such a task, if they had the time.

We have already had occasion to remark that the Legislature are not sent to amend the Constitution, but to attend to the current legislation of the year. We may add, that the individuals usually chosen for that class of duties, are not selected by a high legislative standard. It will hardly be claimed that the higher qualities of statesmanship are insisted upon for our state representatives in any case, while it will be conceded that obligation for past, or the prospect of future services as a political partisan, have much, very much, if not most to do with establishing a candidate's competency for the duties of legislation. Hence those who are selected are, many of them young, and most of them inexperienced in the higher duties of their vocation. They are called to a kind of business, to which

their previous pursuits had, perhaps, never led them to direct their studious attention, and for which they have no preliminary education. On this point of incompetency, however, we cannot dwell, for to say what we feel, would be unpleasant to ourselves, and perhaps to some of our readers, nor is it necessary to elaborate the matter. We put it to every honest and reflecting member of any party, whether assuming that a convention had been determined upon, he would be content that any legislature elected in this State, for the last twenty years, should be drafted for that convention. If we rightly anticipate his answer, then we ask, if he be willing to impose upon that body the very duties which the Convention in question would be called to discharge.

Again, it unfortunately happens to be the case, that nearly every legislator thinks the interests of his own county of more importance than those of the State—the interests of his own town of more importance than those of his county—and his own interests of more importance than any or all of the others together. Through this prevailing infirmity of the legislative conscience, it has come to pass that the votes of the members have become a common article of barter and exchange. Whoso has a favorite measure to propose, secures for it all the votes of indifferent members, by pledging, in turn, his own vote to their favorite measures, about which he happens, himself, to be indifferent. In this way the legislation of an entire session is bound up and interlaced to such a degree that the passage of infamous bills is sometimes made the condition upon which measures of the most vital importance can become laws. Those who will call to mind the conduct of apportion of the Legislature in 1812, in their attempt to charter the Bank of America, may see to what corrupt issues this system of log-rolling in legislation may be made to tend.\*

We mention this then, as another reason for not relying for constitutional reform upon the Legislature. There are a variety of political and personal interests operating upon them to modify very much, if not to control their action, which an independent convention would not be exposed to. Very few private or party ends could be answered by combining for or against any particular measure in a convention. While the nature of the high duties which the delegates are called upon to perform, and for which each would feel personally responsible before his contemporaries as well as to posterity, would constitute a very important security against any infidelity in the exercise of their powers.

In the fourth place, from what we have observed of the state legislatures, it is idle to expect, indeed, it may be idle to expect from any legislative body, a deliberate and spontaneous resignation of any of its important powers; without which, we can have no adequate constitutional reform. It will be observed, that the operation of nearly every change we have alluded to, in our brief summary, would be to deprive the legislature of some substantive right, and restore that right to the people. Indeed, the great purpose of the present

\* We quote the following paragraph from Hammond's Political History of the State of New-York:

"The Bank advocates in the Legislature had systematically prevented any action on nearly all the important business before them. Holding a majority, they seemed determined that nothing of consequence should be done, until their favorite measure (the charter of the Bank of America) should be adopted. The more pressing the necessity of legislation on any given subject, the more carefully did they watch and strenuously oppose, final action upon it. Of two hundred and forty bills, ultimately passed during that session, the greater part of which were then on their table, they had passed but thirty-nine when they were prorogued" (by Governor Tompkins, for corruption.)—Vol. I., p. 309.

movement is to circumscribe the sphere of legislation, and to enlarge the sphere of the individual man. We should surely be regardless of all the teachings of history, we should have watched with but little profit for the controlling motives of the human heart, if we could look to the legislature for reforms which would involve such a serious sacrifice of authority. To us now, *sic notus Ulysses*. We have rarely seen the man who believed that he had more power than he could manage better than any one else, or that the public interest would be served by his transferring any portion of it to another. Still more rarely have we seen the legislature that labored under the oppression of any such self-distrust. On the contrary, we have found that generally they act from the conviction that the public interest rather required an enlargement than a contraction of their authority. Aristotle has somewhere in his politics, very sagaciously observed, that generally, mankind are satisfied with their respective shares of virtue, however scanty they may be, but are extremely dissatisfied with their shares of all other advantages. Without saying anything worse of our legislature than Aristotle said of all mankind, we may be permitted to express our own conviction, that that body are far more anxious to stretch their prerogatives than to be delivered from temptation.

We have long since, therefore, relinquished all hope of relief from the legislature; for as we have before remarked, we have no confidence in the efficacy, or in the purity of reforms emanating from that quarter.

Forasmuch then, as the legislature are not elected to reform the Constitution, but for very distinct purposes, and often entertain opinions quite contrary to those of their constituents upon many questions of constitutional polity; and

Forasmuch, as they have not sufficient time, even though they did fairly and fully represent public sentiment upon those questions, to discuss and present all the required reforms without neglecting their other legislative duties; and

Forasmuch as, admitting that abundant time might be spared them, the political and personal interests of the legislature, which grow out of their official powers, are adverse to prompt and decided action upon the Constitution; and also lead them to make every popular reform the vehicle of more or less impure or unnecessary legislation; and, finally,

Forasmuch, as the legislature always have been, and doubtless will continue to be, unwilling to relinquish any of their powers and restore them to the people, without which restoration, no constitutional reform can be at all complete or satisfactory—we conclude that such a revision of the Constitution as the public interest at present demands, can only be undertaken with safety by a convention of delegates to be chosen directly, and for the purpose, by the people.

It will have been observed, that the preceding remarks were not intended to be confined in their application to the present exigencies of the State of New-York, but that they equally concern every other State in our confederacy; that we have in-

tended to keep before us distinctly the welfare of no particular section or sect in the country, but of the whole country. We have labored at some length, to show the necessity of subjecting all our State Constitutions\* to a thorough revision, once at least in the life time of every generation; and that this revision should be conducted by a convention of delegates elected directly from the people, and for that single purpose. And though the recent movement in the State of New-York has been made the occasion for the remarks, we are very far from implying that the Constitution of that State is, in any sense, more defective than the Constitution of any other of the United States in America; on the contrary, there are not more than one or two, and those the least considerable, of the defects in the New-York Constitution, to which we have alluded, which are provided against in any of the State Constitutions, and we take leave to say that it is the distinguishing glory of the people of New-York, that they have been the first to commence the movement of reform, an example which, we have no doubt, will be ultimately imitated by every state in the Union.

We look to see ample and systematic provision made by every State in the Union for the expansion of constitutional science, and that too, without much delay. The time has come when we must take heed, that that guard which the citizen has placed to protect him from capricious and immature legislation, be not converted into an agent of tyranny to oppress or constrain him; that the instrument which was intended to embody and preserve the political science of the people, and to define the political boundaries of the Government, be not permitted to perpetuate obsolete or erroneous doctrines, nor to vest political powers in a mode or degree unsatisfactory to the manifest wishes of those whom the exercise of those powers concerns; and that every Constitution contain within itself an organism for expansion and growth, corresponding to that by which its subjects grow in wisdom and in power.

We are not of those who believe, that every nation is destined to revolve in a single circle of birth, progress and decline; and that the growth of each, like the falling of the moon, "is but its progress to decay;" least of all do we think such a destiny awaits the institutions of this country. If, however, we should be mistaken, and years should bring with them decrepitude to this nation, we do not hesitate to believe that the cause of her decline will be found in the inflexibility of her Constitutions and the tyranny which their supremacy must always occasion without adequate facilities for amendment and growth.

\* We do not include the Federal Constitution here, not because we think it an exception, but as it has not lain in our way to speak of that instrument in this connection, and as we might be misunderstood, if we included it in the rule we have laid down, without an explanation of our views, we prefer to exclude it until an opportunity shall occur of presenting our reasons at length, for applying the same principles of constitutional reform to it as to the State Constitutions.



## LETTER FROM ARPHAXED LOOMIS, AUTHOR OF THE PEOPLE'S RESOLUTION.

To the N. Y. City Constitutional Association.

LITTLE FALLS, Her. Co. Aug. 14, 1843.

DEAR SIR—I duly received your obliging note conveying the invitation in behalf of the Reform Association of your city, to attend and address a mass meeting, to be held on the 15th August, inst. I am reluctantly compelled to abandon the hope I at first entertained of being present on that occasion. The movement in the city of New-York, and in some other sections of the state, in favor of a constitutional reform in our state government, and the concurring expression of a large proportion of the democratic papers, manifest the watchful attention of the democracy to the workings of our political machinery, and their determination to preserve, improve, and perfect our system of a popular government. It is a movement prompted by experience and observation; a stride onward in the great cause of democracy and humanity. Our's is the only government in the world which has been deliberately chosen and adopted by the voluntary act of the people governed. All those which have preceded it, have been imposed by the chances of war, or by the arts of the ambitious over ignorance and simplicity. We have also learned, that we can modify and change, as well as choose. The theory of our government is new, and we have but fairly started it in operation; half a century is but a brief period in the history of nations. It is the dictate of wisdom to watch its movement, to discover the defects in the machinery by which it operates, and make such changes and improvements as may be found necessary to develop its utility. Nearly every invention of the human mind has required improvements suggested by experience of its practical operations.

Few among us consider our constitution perfect. All concede that abuses and perversions of political power exist, to some extent, through its defects. Yet fears are entertained that a convention to improve its imperfections, would not stop there, but would proceed on, and make injurious alterations where none are required. This is a mistaken and over-cautious apprehension. Men are not prone to change old habits, nor the institutions and forms to which they have become accustomed. On the contrary, they are disposed to submit to moderate abuses, rather than make the efforts requisite to produce reform.

A convention would be composed of able and discreet men. The importance of the occasion would induce the selection of members worthy of the trust; in its deliberations, the ties of organized political parties would be broken and unfelt. To concentrate and unite so many and such minds on any given plan, when the necessity of an improvement is obvious, is a matter of some difficulty; how much more so, when the utility of any change is disputed. To these are to be added, the scrutiny before the people when submitted for approval or rejection.

When we find abuses and mis-government prevailing, and are satisfied that they may be prevented by alteration of the constitution, we should fail in a duty to ourselves and our children, to our institutions and to God himself, in the proper exercise of the powers and functions with which he has endowed us, should we omit to apply the corrective with courage and firmness. It is no excuse, that we apprehend dangers unseen, and only suspected through want of confidence in our fellow-men.

The system of permanent public debt is of recent origin. A comparatively short period in the history of England, is sufficient to demonstrate its tendencies; time must develop the end. Its efficiency in increasing the temporary power of government, by adding to its present resources those of the future, is not to be disputed. It joins the interest of the rich to that of the state, and unites the concentrated energies of both in appropriating, to their own purposes and the aggrandizement of their class, wealth they never earned; it pledges the earnings of labor, now and for time to come, to repay the principal and interest of moneys borrowed for the benefit of others; its whole tendency is to make the rich richer and the poor poorer, and is in hostility with the spirit and object of our institutions. Yet successive Legislatures of our own New-York, as well as those of most of the other states of the Union, representing the power of the people, rather than their will, have contracted debts and borrowed money in the name of their constituents, as recklessly as if the expiration of their term of office cancelled the obligation to pay. Our good credit and fair character for prompt and upright dealing has suffered, our institutions are brought into disrepute, and a system of taxation has been forced upon us to pay interest on money improvidently borrowed and unwisely squandered. Under the same discretionary power, and similar inducements to pervert it, similar practices will be continued. The nature of men cannot be changed, but the organic law by which they hold power, may be. Though prudent and faithful public servants may at all times be found holding places of power, doing battle for the right, yet resistance becomes wearied in the unprofitable controversy; while their fellows, who act on the liberal side, and freely vote away public money and credit, are regarded as they are too apt to be, as munificent patrons of public improvements, and as if they had bestowed their own property, instead of that which belongs to others. Conscience is left alone and unsupported, to contend with self-interest and the solicitation and flattery attendant upon power; it is too commonly vanquished in the struggle; remove the power, and the temptation ceases. Laws creating public debts cannot be repealed; when once passed, public faith is pledged, and repentance comes too late. Other statutes, and even constitutions, may be terminated whenever experience or sober reflection has shown them to be unwise: but a debt once created, however large or unnecessary, has no revocation but payment; property, posterity, honor, all are pledged.

How few in number of the laws which fill our annual volume of statutes relate to the legitimate and proper object of good government—"to restrain men from injuring one another." Special privileges in the form of corporations—local and personal acts, many of them the fruits of former special legislation, constitute the great bulk of the volume and consume the session; besides these, there is a large class adapted to meet the wants of particular sections of the country, which might be better considered and more wisely adjusted by a local jurisdiction in the town or county.

If the functions of the Legislature were confined to objects exclusively for the general welfare, and all temptations of local and individual benefit removed, how different would be the character of our annual sessions—with what earnest and faithful at-

tention to measures of reform and to the correction of abuses, members would devote themselves—how few would be our laws—how short our annual sessions—how pure our legislature.

But it is not to this adjustment alone that the attention of a convention should be directed. The judicial system of the state requires a touch of improvement beyond that which under the present constitution the Legislature can give. It is true, however, that very valuable improvements might be made in the laws for the administration of justice as the constitution now stands, if it were possible to give it the consideration due to it amidst the unnumbered and distrusting claims upon the time and attention of our annual session.

I do not design to specify a detail of the matters which, in my judgment, the subject involves, and have only adverted to some of the more prominent, among other good causes, for the call of a convention to revise the constitution. Let us not be deterred, through vague and undefined distrust of

change, from correcting the errors and defects which the practical operations of our institutions have exhibited. Our fathers left to us the inheritance of a government founded on the only just principle of power which man has the right to exercise over his fellow-man—a power derived from, and exercised for the benefit of the people; let us employ our best faculties in finishing and perfecting their design, neither making hasty and uncalled for amendments, nor rejecting the lessons of experience. The subject is worthy of the best thoughts of the ablest and purest patriots of our country.

I beg of you to make to the members of the association the excuse of my inability to accept of their flattering invitation, and give them the assurance of the very high estimation in which I hold their efforts to advance a most worthy cause.

With much respect, I am

Your obedient servant,

ARPHAXED LOOMIS.

[From the Democratic Review.]

#### THE REFORMER.

The true Reformer, like the pioneer

Who hews the western forest, must throw by

All thought of ease or resting till he die:

Nor in his noble breast admit the fear

Of ill; although, through life, he may not hear

The voice of friend, nor see one loving eye

To cheer him on his way of duty high,

And warn him when his foes are lurking near!

Yet fields of beauty, by his dauntless hand,

Shall rise in loveliness, where now the gloom

Of Error doth the light of Truth withstand;

The lonely wilderness he fells shall bloom

Throughout all after time; and those who now

Scowl with mad hate, before his tomb shall bow!\*

\* Vide fate of William Leggett.



